Supreme Court, U.S.
FILED

No. 091033 FEB 23 2010

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In The

Supreme Court of the United States

MONICA HUJAZI,

Petitioner,

v.

STATE OF CALIFORNIA,

Respondent.

On Petition For A Writ Of Certiorari To The Appellate Division Of The Los Angeles Superior Court

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. May a state Court prohibit a defendant in a criminal case from mounting a defense by declaring a local ordinance to be a "public welfare" offense for which there is "strict liability" when the defendant faces a sentence of up to 18 years incarceration in local custody?

2. Do the Sixth and Fourteenth Amendments to the United States Constitution require the states to permit a criminal defendant to mount a vigorous defense to a case?

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PETITION FOR WRIT OF CERTIORARI

Petitioner Monica Hujazi petitions this Court to grant its Writ of Certiorari directed to the Appellate Division of the Los Angeles Superior Court.

OPINIONS BELOW

The Opinion of the Appellate Division of the Superior Court of Los Angeles County is set forth in the Appendix at 1-16.

JURISDICTION

The decision of the Appellate Division is the highest state Court from which Petitioner may seek relief. Cal. Const., Art. VI, Section 11(b). Petitioner's Motion for Rehearing or Transfer was denied by the Appellate Division on November 25, 2009. This Court has jurisdiction as set forth in 28 U.S.C. 1257.

STATUTORY PROVISIONS INVOLVED

Petitioner was convicted of violating various sections of the Los Angeles [City] Code and the Los Angeles County Code, the County Code sections having been adopted by reference by the City of Los Angeles. The Code sections are set forth in the Appendix at 96-116. Those Code sections are Los Angeles [City] Municipal Code 91.310.9.1.1, 91.302.5,

91.8104.4, 91.8104.5, 91.8104.6, 91.8104.7, 91.8104.8.1, 91.8902.1, 92.0109, 93.0201, 94.103.1, 94.103.1.1, 94.103.1.1.1, 57.20.15, 57.20.41, 57.33.14, 57.33.15, 57.33.17, 57.138.13 and Los Angeles County Code 11.16.020, 11.20.140, 11.20.160, 11.20.190, 11.30.010. Los Angeles Municipal Code Sections 91.310.9.1.1 and 91.302.5 appear to have been repealed before the commencement of this action. There does not appear to be any such section as 91.8104.5.

STATEMENT OF THE CASE

Petitioner was charged in a 101-count criminal Complaint with violation of various portions of the Los Angeles Municipal Code and the Los Angeles County Code. An Amended Complaint filed at the beginning of trial eliminated almost half of the original charges. The Amended Complaint is contained in the Appendix at 22-57.

At the beginning of trial, prior to jury selection, the prosecution sought to limit any defenses Petitioner might have. The prosecution, relying on a case out of the Appellate Division of the Los Angeles Superior Court, asked that the case be declared one of "strict liability".

The trial court agreed with the prosecution and barred the Petitioner from putting on any defense evidence of impossibility or lack of knowledge. For example, Petitioner sought to put on evidence that she had made repairs to the building which the

tenants had destroyed. Some of the charges related to fire doors which had been propped open by tenants, something Petitioner could not remedy.

Contrary to the appellate court's blithe assertion to the contrary, Los Angeles has a strict rent control ordinance which makes it virtually impossible to evict tenants for reasons other than failure to pay rent.

Petitioner was convicted of at least 36 counts, each with a maximum sentence of six months in the county jail and a fine of $1,000 or both the fine and incarceration. The sentences on the various counts may be imposed fully consecutively.

Petitioner appealed to the Appellate Division of the Superior Court, which has jurisdiction over misdemeanor appeals. The appellate court affirmed in a reasoned opinion. Petitioner sought rehearing or transfer to the Court of Appeal, which was denied.

REASONS FOR GRANTING THE PETITION

I. THE STATE COURT AND PROSECUTORS RELY ON A DISCUSSION BY THIS COURT THAT DOES NOT SUPPORT THE CONCLUSION ENABLING "STRICT LIABILITY" OFFENSES.

Petitioner believes that this Court has never applied the limitations on the "strict liability" criminal doctrine to the states. Petitioner believes that there is a right in a state court trial to due process

and the right to put on a defense, both of which were barred to her in the underlying matter. Petitioner believes that it is time for this Court to set the matter of Constitutional interpretation in cases such as this.

In *Morissette* v. *United States*, 342 U.S. 246 (1952), the United States Supreme Court discusses so-called "public welfare" cases for which "strict liability" is imposed. The Court, as discussed below, rejected the imposition of liability in *Morissette*.

In *Staples* v. *United States*, 511 U.S. 600 (1994), this Court severely narrowed the so-called "strict liability" doctrine, noting that it applied to inherently dangerous things, two examples being narcotics and hand grenades. The trend, noted the Court, was to avoid the elimination of *mens rea* in virtually all cases.

Petitioner was convicted of various violations of the Los Angeles Municipal Code dealing with purported violations of housing, plumbing, and fire code sections involving an apartment building. The apartment building is owned by a trust. There have been no allegations that the apartment building in question is a slum or is otherwise extremely unsafe.

Petitioner has already been sentenced to six months in the County Jail, fines, and three years of probation. In the event of a probation violation, which the prosecutor has already sought, Petitioner faces up to 18 years in the County Jail.

At trial, Petitioner was prohibited from putting on a defense, the trial Court citing a case imposing strict criminal liability for housing violations. The word "willfully" was stricken from the Complaint and the jury was, in essence, told to find Petitioner guilty without requiring a finding that any act or omission was committed by her. App. 24-31.

The law of strict criminal liability has a mottled history at best. Even when being upheld, courts have consistently noted its checkered past, wrinkled their noses, and sought other grounds upon which to affirm convictions, while upholding the validity of strict liability in specific cases. The two leading law review articles on the subject, Sayre, *Public Welfare Offenses* 33 Col.L.Rev. 55, 73, 84 (1933) and Browne, *California's Public Welfare Offenses* 43 So.Cal.L.Rev. 423 (1962), are heavy in their condemnation of the doctrine.

In the case at bar, the crux of the prosecution's argument was that *People* v. *Bachrach*, 144 Cal.App.3d Supp. 8 (1980) and this case fall into a class of strict liability cases ("public welfare offenses") that have been sanctioned subsequent to the inception of strict liability, which itself is a violation of normal due process standards, especially including the right to put on a defense.

The argument that passive housing violations are the equivalent of traditional strict liability cases is fallacious. Strict criminal liability for violations under civil abatement proceedings against landlords (as a

class) is a newly-carved addition to the traditional classes of strict liability offenses and cannot be supported by case law.

II. THE STRICT LIABILITY DOCTRINE DID NOT APPLY TO VIOLATIONS OF LOCAL HOUSING ORDINANCES UNTIL IT WAS EXTENDED BY *BACHRACH*.

"Under the California Penal Code, 'In every crime or public offense there must exist a union or joint operation of act and intent, or criminal negligence.'" California Penal Code Section 20; Browne, *California's Public Welfare Offenses*, *supra*, 424.

> Although a public welfare offense does not require the existence of an unlawful intent, an intent to commit the prohibited act is required. The intent to commit the act coupled with its consummation satisfies the above requirement of 'a joint operation of act and intent.' For example, under a California statute prohibiting the possession of narcotic substances, although a wrongful intent is not a necessary part of the criminal act, there must exist at least an intent to possess the object. *Ibid.*, fn. omitted.

Strict liability offenses can be interpreted as legislative judgments that persons who intentionally engage in certain activities (the contrary of passive property ownership) and occupy some peculiar or distinctive position of control are to be held accountable for the occurrence of certain consequences.

Wasserstrom, *Strict Criminal Liability* 12 Stan.L.Rev. 73, 74.

Sayre, *supra*, in his definitive 1935 treatise on the subject, cites and classifies a large number of cases into rough subdivisions of (1) illegal sales of intoxicating liquor, (2) sales of impure or adulterated food or drugs, (3) sales of misbranded articles, (4) violations of anti-narcotic laws, (5) criminal nuisances, (6) violations of traffic regulations, (7) violations of motor vehicle laws, and (8) violations of "general police regulations, passed for the safety, health or well-being of the community." 33 Col.L.Rev., 84; *Morissette* v. *United States*, 342 U.S. 246, 262 (1952).

In Browne's 1962 treatise, he points out that in California there are essentially four types of strict liability offenses: buyer-seller, "moral" offenses, statutes prohibiting possession of certain articles, such as weapons or narcotics, and "other" statutes, such as issuing securities without a permit or an officeholder who appropriates, converts, profits by or uses money without direct authority of law.

Obviously, landlords have duties to their tenants to maintain the facilities in decent, habitable condition and, likewise, the city and state have rights and obligations to make sure that they do so. However, it is ludicrous to legitimize a system in which they can criminally prosecute an individual in a strict liability context and win where they might not win in a prosecution of that same individual under a criminal abatement theory or under a criminal

negligence action, both of which are clearly applicable to landlords who fail to properly maintain residential rental facilities.

The history and holding of the *Morissette* decision is well known and partially reviewed in almost every case that deals with strict liability. Nonetheless, because of the fact that *Morissette* often is selectively quoted (particularly by prosecutors seeking to gain convictions), certain aspects of that case need to be reviewed.

Morissette is fairly straightforward: Without any attempt at concealment, an individual removed rusting hulks of used bomb casings from a government bombing range extensively used by hunters. He sold the casings for $84. Mr. Morissette made no attempt to conceal what he had done and believed, in fact, that the government had abandoned the metal. Nevertheless, he was indicted, prosecuted, and convicted on the charge that he "did unlawfully, willfully, and knowingly steal and convert" property belonging to the government, and was prosecuted in strict criminal liability on the grounds that "conversion of government property . . . requires no element of criminal intent." *Morissette* at 249-250.

The United States Supreme Court granted certiorari, thoroughly discussed the history of the doctrine of strict liability and relevant case law, and then reversed the defendant's conviction, holding that notwithstanding the language of the statute, "Congressional silence as to mental elements in an Act

merely adopting into federal statutory law a concept of crime already so well defined in common law and statutory interpretation by the states may warrant quite contrary inferences than the same silence in creating an offense new to general law, for whose definition the courts have no guidance except the Act." *Morissette* at 262.

> The Government asks us by a feat of construction radically to change the weights and balances in the scales of justice. The purpose and obvious effect of doing away with the requirement of a guilty intent is to ease the prosecution's path to conviction, to strip the defendant of such benefit as he derived at common law from innocence of evil purpose, and to circumscribe the freedom heretofore allowed juries. Such a manifest impairment of the immunities of the individual should not be extended to common law crimes on judicial initiative.
>
> . . . [W]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practices, it presumably knows and adopts the cluster of ideas that were attached to each borrowed work in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless instructed. In such case, absence of contrary direction may be taken as satisfaction with widely accepted definitions, not a departure from them. *Morissette* at 263.

The Supreme Court, relying on Sayre, *supra*, also pointed out that "in criminal syndicalism or sedition cases, where the pressure to convict is strong, it has been accomplished by dispensing with the element of intent, in some instances by analogy with public welfare offense." [Citations omitted, except *People* v. *McClennegen*, 195 Cal. 445 (1925).] "This although intent is of the very essence of offenses based on disloyalty. [Citations omitted] [I]nnocence of intent will defeat a charge even of treason." *Morissette* at fn. 21.

> We think presumptive intent has no place in this case. A conclusive presumption which testimony could not overthrow would effectively eliminate intent as an ingredient of the offense. A presumption which would permit but not require the jury to assume intent from an isolated fact would prejudge a conclusion which the jury should reach of its own volition. A presumption which would permit the jury to make an assumption which all of the evidence considered together does not logically establish would give to a proven fact an artificial and fictional effect. In either case, this presumption would conflict with the overriding presumption of innocence with which the law endows to the accused and which extends to every element of the crime. Such incriminating presumptions are not to be improvised by the judiciary. *Morissette* at 275.

Thus, while *Morissette* acknowledges the concept of public welfare offenses, it emphatically does not

support the extension of strict liability to "offenses by mere omission of language." It is worth noting that the Court pointed out that "public welfare" offenses were those which involved a fine only. This language can hardly be expanded to include the Draconian jail time facing this Petitioner.

The trial court in this case, of course, went even further by eliminating the word "willfully" from the Complaint. App. 86. The word "willfully" also appeared in the ordinances (in this case the County Code). Thus, by judicial fiat, the trial court rewrote the ordinance in order to ease the prosecution's task.

CONCLUSION

For the reasons set forth above, Petitioner asks this Court to issue its Writ of Certiorari directed to the Appellate Division of the Superior Court.

Respectfully submitted,

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APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. MONICA HUJAZI, Defendant and Appellant.	BR 046588 Central Trial Court No. 7HY05760 **MEMORANDUM JUDGMENT** (Filed Nov. 6, 2009)

PROPOSED OPINION

In this timely appeal, defendant Monica Hujazi seeks reversal of the judgment imposed after a jury found her guilty of violating various provisions of the Los Angeles Municipal Code and the Los Angeles County Code regarding the condition of a residential apartment building which she owned, operated, and controlled. Defendant contends that the trial court committed instructional error and violated her constitutional right to present a defense to the charges. We find no error or constitutional violation and, accordingly, affirm the judgment.

BACKGROUND

Defendant owned, operated, and controlled a 68-unit residential apartment building located at 621 S. Union Avenue in Los Angeles. Initially, defendant was charged with over 100 violations of the law. Prior to trial and on the prosecution's motion, some of the

counts were dismissed. The cause proceeded to trial on 51 counts that alleged various building, fire, electrical, plumbing, and health violations on dates falling within the time period from June 19, 2007, through August 22, 2007. During hearings outside the presence of the jury, the court granted the People's motion to strike the word "willfully" from the charged crimes; ruled that all of the charged crimes were strict liability offenses; and precluded defendant from offering any evidence before the jury to establish the defense of objective impossibility on the ground that her offer of proof was inadequate to allow such testimony.

The prosecution's case consisted of the testimony of Brian Beltran, an inspector for the Los Angeles Housing Department, Calvin Morris, an inspector for the Los Angeles County Health Department, and Andrew Gutierrez, an inspector for the Los Angeles City Fire Department. All inspectors were members of the Interagency Task Force that focused on substandard buildings. Each inspector testified regarding the various violations found during his respective inspection of the building on various dates within the time periods alleged in the complaint. The charges were based upon violations discovered during one inspection and not corrected by a later inspection, and upon new violations found during a subsequent inspection. The jury found defendant guilty of 36

counts[1] and not guilty of 10 counts, The trial court imposed a probationary sentence and defendant timely appealed from the judgment.

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[1] Defendant was convicted of violating the following provisions of the Los Angeles Municipal Code (LAMC): section 91.310.9.1, failure to provide smoke detectors (count 1); section 91.8104.1, failure to maintain walls and ceilings (count 3); section 91.8104.7, failure to maintain areas adjoining plumbing fixtures (count 4); section 91.8104.7, failure to maintain plumbing fixtures (court [sic] 5); section 91.8104.8.1, failure to maintain electrical system in a safe and sanitary condition (count 6); section 91.8104.6, failure to maintain flooring in a defect free and sanitary condition (count 7); section 91.8104.5, failure to paint, cover and maintain in a clean, defect free and sanitary condition, doors, windows, screens, cabinets and frames (count 9); section 91.8092.1.12, failure to maintain adequate sanitation resulting in mold and mildew (count 13); section 92.0109, failure to provide an operational elevator (count 14); section 91.302.5, failure to maintain a one-hour fire occupancy separation (count 15); section 57.20.41, failure to maintain fire assembly door (count 16); section 91.8902.1.13, failure to maintain insect screens (count 18); section 91.509.1, failure to maintain guard rails (count 19); section 94.103.1, failure to obtain a plumbing permit (count 21); section 93.0201, failure to obtain an electrical permit (count 23); section 94.701.1, unlawfully maintaining, A.B.S. plumbing (count 24); and section 91.319.4, failure to provide an emergency escape exit (count 48);

In addition, defendant was also convicted of violating Los Angeles County Code section 11.20.160, failure to maintain flooring in good condition (count 52); section 11.20.160, failure to maintain plumbing fixtures and/or pipes in good condition (count 53); section 11.20.190, failure to maintain bathroom in good repair and free from corrosion, filth. and dirt (count 54); section 11.20.340/11.20.140(b)(3), rendering a building substandard by having damaged drywall, interior walls, bathroom door, sink, frame, flooring and ceilings (count 55); section 11.20.340/11.20.140(b)(3), rendering a building substandard by

(Continued on following page)

ISSUES ON APPEAL

Defendant seeks reversal of the judgment on the following grounds: (1) that the trial court erred by finding that the ordinances were strict liability offenses which did not require the prosecutor to prove defendant acted with general intent or criminal negligence, and (2) that the trial court violated

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having a leaking ceiling (count 56); section 11.20.140, failure to keep premises free from insects vermin or rodents (count 60); section 11.30.010, permitting the breeding and harborage of bedbugs and cockroaches (count 61); section 11.20.340/11.20.140(b)(3), rendering a building substandard by having damaged, missing or broken windows, frames, sashes, sills and panes (count 63); section 11.20.160, failure to maintain or replace, doors, hinges, door knobs, cabinets, and medicine cabinets (count 65); section 11.16.020, failure to maintain premises in a clean and sanitary manner, and free of garbage and trash accumulation (count 66); section 11.20.190, failure to maintain toilet rooms, bathrooms, showers and fixtures in good condition and free of corrosion (count 67); section 11.20.160, failure to maintain electrical wiring, bulbs and fixtures in good condition (count 68); section 11.20.160, failure to provide, replace or repair smoke detectors (count 69); section 11.20.160, failure to maintain kitchen counters and/or walls, floors, ceilings, carpeting in good repair (count 70); section 11.20.340/11.20.140(b)4, failure to abate mold and mildew (count 77); and section 11.20.140, failure to maintain stair treads (count 81).

Lastly, defendant was convicted of violating LAMC section 57.20.15, having a fire door in a state of disrepair (count 87); section 57.33.15(c), failure to maintain lighted signs of egress (count 88); section 57.33.15(c), failure to properly maintain windows for use during a fire escape (count 93); section 57.33.15(a), failure to maintain exit signs (count 96); section 57.33.17(a), failure to maintain a stairway numbering system (count 101); and section 57.138.13, failure to identify Fire Department inlet connections (count 104).

defendant's constitutional right to present a defense by precluding evidence and by refusing to instruct the jury on the defense theory – namely that it was impossible for defendant to comply with the ordinances she was accused of violating when the violations were based upon the actions of her tenants.

DISCUSSION

Strict Liability

It is well settled that regulatory statutes enacted to protect the public are an exception to the general rule that crimes require a criminal intent. (*People v. Coria* (1999) 21 Cal.4th 868, 876-877.) These "'so-called "public welfare" or "*malum prohibitum*" crimes . . . are punishable despite the absence of any criminal intent or criminal negligence.' [Citation.] 'These public welfare crimes are most often based upon the violation of statutes purely regulatory in nature and involving widespread injury to the public. [Citation.]'" (*People v. Matthews* (1992) 7 Cal.App.4th 1052, 1057-1058, original italics, quoting *People v. Chevron Chemical Co.* (1983) 143 Cal.App.3d 50, 53-54.) Additionally, these strict liability offenses usually involve "light penalties and no moral obloquy or damage to reputation. Although criminal sanctions are relied upon, the primary purpose of the statutes is regulation rather than punishment or correction. The offenses are not crimes in the orthodox sense, and wrongful intent is not required in the interest of

enforcement. [Citations.]" (*People v. Vogel* (1956) 46 Cal.2d 798, 801, fn 2.)

Defendant contends that the ordinances she was convicted of violating do not fall within the same class of offenses generally classified as strict liability offenses, and that application of the seven-prong test set forth in *In re Jorge M.* (2000) 23 Cal.4th 866 (*Jorge M.*) supports her position. Moreover, she urges this court to find that the case relied upon by the trial court, *People v. Bachrach* (1980) 114 Cal.App.3d Supp. 8 (*Bachrach*), was incorrectly decided, and that this court should overrule the decision.

The seven-prong *Jorge M.* test is utilized when "legislative intent [cannot be] readily discerned." (*Jorge M., supra*, 23 Cal.4th at p. 873.) The intent of the legislative bodies in enacting the ordinances at issue is clearly expressed as an intent to protect the public by requiring compliance with the regulations. The nature of the crimes and the maximum allowable misdemeanor penalties do not carry "'moral obloquy or damage to reputation' [citation]." (*Ibid.*) The ordinances seek to further the government's goal of protecting the public by requiring affirmative acts of persons in control of residential apartment buildings. (*People v. Davis* (2005) 126 Cal.App.4th 1416, 1434-1435.) Thus, the statutes qualify as regulatory, and application of the *Jorge M.* analysis is not warranted. On that basis, we continue to follow *Bachrach*, which found that the regulations before the court in that case were strict liability crimes. "From the subject matter, the language, the purpose of the laws which

the jury found the defendant violated, the legislative intent in their enactment is clear. These laws were adopted to protect the lives and property of persons in crowded apartments." (*Bachrach, supra*, 114 Cal.App.3d at p. Supp. 12.) The general principles upon which the court in *Bachrach* determined that the crimes were strict liability offenses have not been changed by any subsequent cases; nor has *Bachrach* been expressly or impliedly overruled by a higher court.

Defendant nevertheless argues that the crimes in this case fail to meet the requirement that strict liability offenses be enacted for "the protection of the public" in the broadest use of the term, and that regulations such as those at issue here which are enacted to protect persons who reside in apartment buildings, have limited application which precludes such a finding. As explained below, we disagree.

None of the ordinances proclaim such a parochial intent. Unabated health, fire, electrical, and building violations, in multiple dwellings, pose serious harm which potentially extends as beyond the confines of any particular apartment building. The devastation and damage from fire, flooding, and sanitation problems are rarely confined to the source or origin thereof. By way of illustration, the potential for fires to quickly spread in Southern California is well-documented, as are the after-effects and impact on the public at large from the displacement of large numbers of persons from their original place of

residence, and the impact on the availability of emergency services.

Likewise, the potential for widespread transmittal of disease and vermin infestation due to unsanitary conditions from multi-unit residential buildings, which are in violation of plumbing and/or sanitation regulations, does not require elaboration. The harm sought to be avoided compares to similar public health and welfare regulations found not to require any proof of criminal intent. (See *In re Jennings* (2004) 34 Cal.4th 254, 276 [providing alcohol to an underage person]; *People v. Roscoe* (2008) 169 Cal.App.4th 829, 835 [underground storage tanks]; *People v. Davis, supra*, 126 Cal.App.4th at p. 1437 [duty to report elder abuse]; *People v. Matthews* (1992) 7 Cal.App.4th 1052, 1058 [improper storing and labeling, and permitting the leaking of hazardous waste containers]; *People v. Chevron Chemical Co.* (1983) 143 Cal.App.3d 50, 56 [depositing material deleterious to fish and plant life into state waters]; *People v. Casey* (1995) 41 Cal.App.4th Supp. 1, 7-8 [misbranding cattle]; and *People v. Balmer* (1961) 196 Cal.App.2d Supp. 874, 877-878 [maintaining unsanitary conditions in a nursing home].) The potential for serious and widespread harm to the public at large is evident. (*In re Jennings, supra*, 34 Cal.4th at p. 275.)

The concern for the public at large, vis-a-vis the particular occupants of a structure, is manifested in the provisions of each respective ordinance setting forth the respective legislative intent. Specifically, the

intent of the Los Angeles County Health and Safety Code is to "supplement the provisions of the laws and regulations of the state of California by prescribing higher standards of sanitation, health and safety." (L.A. County Code, tit. 11, § 11.02.150.) In addition, the Los Angeles Fire Code aims to safeguard "life and property from fire, explosion, panic, or other hazardous conditions which may arise in the use or occupancy of buildings, structures or premises; and to prescribe such other laws as it may be the duty of the Fire Department to enforce." (LAMC, § 57.01.02.) The purpose of the Los Angeles Building Code is to "safeguard life, limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures erected . . . within the city, . . . " (LAMC, § 91.101.2.)

Furthermore, the purpose of the Los Angeles Electrical Code is to reduce the personnel hazard and the fire hazard from electrical causes. To accomplish this, the requirements set forth therein are intended to provide a minimum standard for electrical installations in the City of Los Angeles, and are interpreted to provide that "[i]f two or more pertinent limitations are not identical, those limitations which provide the greater safety to life and limb, property or public welfare shall prevail." (LAMC, § 93.0105(a).) Lastly, the purpose of the Los Angeles Plumbing Code is to "safeguard health, life, property and public welfare by regulating the design, alteration, construction,

installation, repair, and quality of materials for plumbing, fire sprinkler, rainwater piping, standpipe, subsurface drainage piping, swimming pool piping, reclaimed water piping, underground fire-protection piping, and graywater piping systems installed in the City." (LAMC, § 94.101.2.)

Accordingly, we find that the court did not err in finding that the charged crimes did not require proof of criminal intent, and by so instructing the jury.

Impossibility Defense

Defendant complains that the trial court violated her constitutional right to present a defense by precluding her from offering evidence of objective impossibility, and by refusing to instruct the jury on her defense to the crimes. We find no error.

The defense at issue here, as asserted in the trial court, was that of impossibility as set forth in *United States v. Park* (1975) 421 U.S. 658 (Park), *United States v. Dotterweich* (1943) 320 U.S. 277 (*Dotterweich*), and *People v. Matthews, supra* (*Matthews*). All of the cited cases involved corporate officers who were prosecuted for violating strict liability statutes. The court in *Matthews*, citing *Park* and *Dotterweich*, stated as follows: "'[p]ersons holding significant shares of corporate responsibility and power subject to prosecution and conviction for strict liability crimes unless they have exercised their responsibilities and power so as to have undertaken all objectively possible means to discover, prevent and remedy any

and all violations of such laws." (*Matthews, supra*, 7 Cal.App.4th at p. 1062.) None of the cases cited by defendant mention the cost of regulatory compliance as an element of the defense.

In her opening brief, defendant argues that her defense includes "'impracticability due to excessive and unreasonable difficulty or expense,'" and cites *Kaye v. Mozart La Jolla Homeowners Assn.* (1988) 204 Cal.App.3d 1476, 1483 (*Kaye*), *Maudlin v. Pacific Decision Sciences Corp.* (2006) 137 Cal.App.4th 1001, 1017 (*Maudlin*), and *Harvey v. Lake Buena Vista Resort, LLC* (M.D. Fla. 2008) 568 F.Supp.2d 1354, 1368 (*Harvey*), as authority in support thereof. *Kaye* was not a criminal case; nor was it a civil case where objective impossibility was asserted as an affirmative defense. Instead, *Kaye*, and the cases it relied upon, discussed and applied impossibility as an exception to the statutory requirement that civil cases be brought to trial within five years or be subject to dismissal. (*Kaye, supra*, 204 Cal.App.3d at p. 1482-1486.) Accordingly, *Kaye* is of no assistance here. Similarly, defendant's reliance on the contact principles stated in *Maudlin* and *Harvey* is likewise inapplicable here for the simple reason that defendant's obligation to obey the law is not based upon contract – she entered into no contract with the City of Los Angeles.

Assuming, without deciding, that such a defense were available to defendant, the trial court did not err in finding that defendant's offer of proof was nevertheless inadequate to warrant giving the requested instructions. A defendant is entitled to a

requested instruction only if it is supported by substantial evidence. (*People v. Villanueva* (2008) 169 Cal.App.4th 41, 49.) Substantial evidence means evidence from which "a reasonable jury could find the existence of the particular facts underlying the instruction. . . ." (*People v. Lee* (2005) 131 Cal.App.4th 1413, 1426.) "In deciding whether there is substantial evidence, 'the trial court does not determine the credibility of the defense evidence, but only whether "there was evidence which, if believed by the jury, was sufficient to raise a reasonable doubt. . . ."' [Citation.] (*People v. Saavedra* (2007) 156 Cal.App.4th 561, 567.) The court is not required to give an instruction, even though it may be a correct statement of the law, if the instruction has no application to the facts of the case. (*People v. Guiton* (1993) 4 Cal.4th 1116, 1129.)

Defendant's offer of proof did not satisfy the substantial evidence test. Defendant's proffer was, in essence, that she had undertaken to remedy some of the specified violations, but that her efforts were either hindered or sabotaged by renegade tenants who either failed to cooperate, or who immediately destroyed any repairs she made. Specifically, defendant told the court that she intended to call the following witnesses: (1) three pest control company employees who would testify that from "2006 on," there were some tenants who refused to allow admittance into their apartments, some tenants who allowed admittance but failed to follow the preparatory instructions for extermination, and some

tenants who maintained "filthy" apartments; (2) three ex-managers who would testify regarding certain tenants "destroying various property"; and (3) a contractor who would testify that he put in brand new screen s [sic], brand new frames, and other work that tenants destroyed, including carpets and screens which were destroyed less than one week after installation.

The defense that defendant was relying upon – "objective impossibility" – requires her to produce substantial evidence to raise a reasonable doubt that she did all that was objectively possible in order to "discover, prevent and remedy" the violations. Although defendant blamed some of her tenants for the state of the building, her offer of proof did not include any unsuccessful efforts to take corrective efforts against the offending tenants. The premises were subject to rent control and, as such, the landlord was authorized to evict a tenant who damages either his/her units, the unit's appurtenances, or the common areas of the building. (LAMC, § 151.09A.3.) Under the facts of this case, in the absence of evidence that it was objectively impossible for defendant to take corrective action against the complained of tenants, her offer of proof was inadequate as a matter law.

Defendant's assertion that the exclusion of this evidence violated her right to due process and her right to present a defense is not persuasive. While defendant's right to present a defense is a fundamental right, it is subject to the rules of evidence and

procedure. (*Chambers v. Mississippi* (1973) 410 U.S. 204, 302.) "As a general matter, the '[a]pplication of the ordinary rules of evidence . . . does not impermissibly infringe on a defendant's right to present a defense.' [Citations.] Although completely excluding evidence of an accused's defense theoretically could rise to this level, excluding defense evidence on a minor or subsidiary point does not impair an accused's due process right to present a defense. [Citation.]" (*People v. Fudge* (1994) 7 Cal.4th 1075, 1102-1103.)

A defendant's right to present a defense does not alter the requirement that the evidence offered be relevant. While a defendant has "the right to put before a jury evidence that might influence the determination of guilt" (*Pennsylvania v. Ritchie* (1987) 480 U.S. 39, 56), the exercise of this right "must comply with established rules of procedure and evidence. . . ." (*Chambers v. Mississippi, supra*, 410 U.S. at p. 302.) "The [defendant] does not have an unfettered right to offer testimony that is incompetent, privileged, or otherwise inadmissible under standard rules of evidence." (*Taylor v. Illinois* (1988) 484 U.S. 400, 410.) Because defendant's offer of proof was inadequate, the trial court's ruling excluding the evidence did not implicate any of defendant's constitutional rights.

The judgment is affirmed.

/s/ P. McKay
P. McKay, P.J.

We concur.

/s/ J. Wasserman
Wasserman, J.

/s/ A. Dymant
Dymant, J.

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

People of the State of California, Plaintiff, vs. Monicca [sic] Hujazi, Defendant.	BR046588 Central Trial Court No. 7HY 05760 PETITION FOR RE-HEARING AND FOR TRANSFER TO COURT OF APPEAL Date: Time: Place: (Filed Nov. 16, 2009)

Appellant Petitions this Court for Rehearing (Rule 8. 889) and for transfer to the Court of Appeal (Rule 8. 1000, et. seq.). The reasons for this Petition are that the decision of this Court is contrary to the law. The transfer is necessary in order to achieve "uniformity of decision" and to "settle an important question of law". (Rule 8. 1002) Appellant has contended that she was not permitted to put on a defense in the trial Court. The trial Court relied on this Court's predecessor's opinion in *People v. Bachrach* (1980) 114 Cal. App. 3d Supp. 8 Appellant contended that *Bachrach* was incorrectly decided and asked that it be overruled. The Court declined Appellant's invitation. It is clear from the *Bachrach* decision itself that it was incorrectly decided. The Court there relied on *Morissette v. United States* (1952) 342 US 246. That

reliance was misplaced and in error. The *Bachrach* Court sought to make certain violations of Municipal Codes into per se crimes, for which there was literally no defense. The *Bachrach* Court cited *Morisette,* saying that the United States Supreme Court had approved of such handling of administrative regulations. The Supreme Court said no such thing. In *Morisette,* the defendant had been accused of stealing and converting to his own use certain abandoned property of the United States government. In the trial court, the defendant attempted to argue that he reasonably believed that the property was abandoned. (The property was rusted tubes which had constituted parts of dummy bombs used in target practice. The tubes had been abandoned for a substantial period of time.) The trial court refused to permit the defendant to put on such a defense. Indeed, the trial court in essence said that if the defendant had removed the property then he (the defendant) had, as a matter of law, committed the crime with which he was charged. The defendant was convicted. The United States Supreme Court reversed. The *Bachrach* Court held that these administrative crimes were permitted because there was very little jail time involved. The *Morisette* Court, however, seemed to approve of such crimes only where there was *no jail time involved or permissible* at all. Thus, the *Bachrach* Court twisted *Morisette* out of shape in order to achieve its particular result. And Ms. Hujazi gets sentenced to six months of actual custody, less credits. Since the *Bachrach* Court was wrong on a matter of interpretation of the United

States Constitution, this matter should be reheard and the verdict reversed or the matter should be transferred to the Court of Appeal for a more authoritative decision.

This Court's opinion in this matter asserts:

> While a defendant's right to present a defense is a fundamental right, it is subject to the rules of evidence and procedure. (*Chambers v. Mississippi* (1973) 410 U. S. 284, 302 [Slip opinion at 10]

This is precisely *the opposite* of the holding in Chambers. The defendant in Chambers had been prevented from cross-examining a witness, from impeaching a witness, and from calling certain witnesses of his own in order to impeach that witness. The rulings of the trial court were all in line with Mississippi evidence law at that time. The Supreme Court reversed precisely because the rules of evidence stood in the way of the defense in a criminal case. That is exactlyly [sic] what happened in this matter. The erroneously – decided *Bachrach* case stands in the way of a defense of impossibility (or interference) in this case. Nevertheless, the Courts of Los Angeles County have ignored the United States Constitution and created a class of administrative per se crime, punishable by incarceration. This is an infringement upon Ms. Hujazi's liberty, unsupported by due process of law. Because the rulings of this Court and the trial Court are at odds with the Federal Constitution, this matter should be (a) reheard and reversed or (b) transferred

to the Court of Appeal for all the purposes for which such transfers are intended.

Respectfully submitted this Sixteenth day of November, 2009.

_____

Michael E. Grodsky
Attorney at Law

PROOF OF SERVICE BY MAIL

My name is Michael Grodsky. I am over the age of eighteen years and not a party to the within action. My business address is 6010 Wilshire Blvd., Suite 403, Los Angeles CA 90036. On this day, I served a copy of the within Motion for Relief from Default and to Designate Record [473(d) CCP] on each of the persons and/or entities shown in the attached list by enclosing the same in an envelope, each with first class postage thereon fully prepaid and addressed as follows:

City Attorney's Office
200 N. Main St.
500 City Hall East
Los Angeles CA 90012

Monica Hujazi
919 N. Amphlett Blvd.
San Mateo CA

Hon. Judge Richard Kemalyan
Dept. 79
Hollywood Superior Court
5925 Hollywood Blvd.
Los Angeles CA 90028

I placed the said envelope in the United States Mail at Los Angeles, California this day.

The foregoing is true and I so state under penalty of perjury under the law of the State of California this Sixteenth day of November, 2009 at Los Angeles County.

_____
Michael Grodsky
Declarant

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MONICA HUJAZI aka MONICA HELENA HUJAZI (F; 5/6/1961), Individually and as Trustee of the ZUERCHER TRUST OF 1999; and THE ZUERCHER TRUST OF 1999, Defendants. LAMC 91.310.9.1.1 (51 COUNTS TOTAL)	**AMENDED** MISDEMEANOR COMPLAINT Case number: 7HY05760 FILED JOHN A. CLARKE Executive Officer/Clerk By _____ Deputy Clerk Issued by ROCKARD J. DELGADILLO City Attorney By _____ MICHAEL F. DURAN (TAG) Deputy City Attorney

Comes now the undersigned and states that he is informed and believes, and upon such information and belief declares: That on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.310.9.1.1 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located, at 621 SO. UNION

AVENUE, did, unlawfully fail to provide a dwelling unit, efficiency dwelling unit, congregate residence, guest room and suite, in a building with smoke detectors which are "listed" as that term is defined in Article 3, Chapter IX, of the Los Angeles Municipal Code (Electric Code) and approved by the state fire marshal.

MCI 91.310.9.1.1/01

*LAMC Sections 91.310.9.1.1, 91.8603.1.1, 91.8104.4, 91.8104.7 (V1), 91.8104.7 (V2), 91.8104.8 (V1), 91.8104.6, 91.8902.1.12, 91.8104.5, 91.8104.1, 93.0104, 93.0700/NEC 370-28(C), 91.8902.1.12, 92.0109, 91.302.5, 57.20.41(A), 57.01.35(D), 91.8902.1.13, 91.509.1, 94.313.8, 94.103.1, 91.8104.8 (V2), 93.0201, 94.701.1, 91.8104.4, 91.8104.7 (V2), 91.8104.5, 91.8104.7 (V1), 91.8104.12, 91.8902.1.12, 91.8104.6, 91.8902.1.13, 91.302.4, 91.8104.1, 91.509.1, 91.8104.1, 94.0101.5.5, 91.8104.8, 91.8104.7 (V2), 94.103.1, 94.408.2, 91.8104.7 (V1), 91.8104.5, 91.8104.4, 91.8104.6, 91.8104.8 (V1), 91.8104.8 (V2), 91.310.4, 91.310.2.2, 91.8902.1.12, 91.310.9.1.1, 11.20.160, 11.20.160, 11.20.190, 11.20.340/11.20.140, 11.20.340/11.20.140, 11.20.160, 11.20.340/11.20.140, 11.20.050, 11.20.140, 11.30.010, 11.20.330, 11.20.340/11.20.140, 11.20.160, 11.20.160, 11.16.020, 11.20.190, 11.20.160, 11.20.160, 11.20.160, 11.20.340/11.20.140, 11.20.340/11.20.140, 11.30.010, 11.20.340/11.20.140, 11.20.340/11.20.140, 11.20.340/ 11.20.140, 11.20.340/11.20.140, 11.20.340/11.20.140, 11.20.340/11.20.140, 11.20.050, 11.20.140, 11.20.190, 11.20.190, 57.20.15(A), 57.140.10(A), 57.112.04, 57.20.15(A), 57.33.15(C), 57.21.04(A), 57.20.15(A), 57.57.06(B), 57.20.15(A), 57.23.14(A), 57.33.14(C), 57.33.16, 57.33.15,

57.33.14(C), 57.140.09(C), 57.33.08, 57.12.02(1), 57.33.17(A), 57.33.07(A), 57.21.04(A)(2), 57.138.13, 57.01.35(C), 57.112.07(A).

COUNT 3

For a further, separate and third cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.4 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain in clean and sanitary condition and in good repair, the walls and ceilings of every room, structure and portion thereof.

MCI 91.8104.4/01

COUNT 4

For a further, separate and fourth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles,

in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.7 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain plumbing fixture's, shower enclosures, waste water drain lines, water supply lines, counters, drainboards and adjoining wall and floor areas provided to protect against water damage in good repair and in a clean and sanitary condition.

MCI 91.8104.7/01

COUNT 5

For a further, separate and fifth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.7 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain plumbing

fixtures, water supply lines and drains in good repair and in a clean and sanitary condition.

MCI 91.8104.7/01

COUNT 6

For a further, separate and sixth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.8.1 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain in safe and sanitary condition and in good repair electrical service, lines, switches, outlets, fixtures and fixture coverings and supports.

MCI 91.8104.8.1/01

COUNT 7

For a further, separate and seventh cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007

thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.6 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain the floor and floor covering of said building, in a clean and sanitary condition, free from defects, holes, loose, worn and missing portions, that could present a safety hazard.

MCI 91.8104.6/01

COUNT 8

For a further, separate and eighth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8902.1.12 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to provide adequate

sanitation resulting in failure to prevent infestation of insects, vermin or rodents as determined by the Health officer.

MCI 91.8902.1.12/01

COUNT 9

For a further, separate and ninth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.5 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to finish, seal, coat, paint and cover in an approved manner so as to maintain them in a clean and sanitary condition and in good repair the doors, windows, window screens, cabinets, frames and similar finishes at said building.

MCI 91.8104.5/01

COUNT 10

For a further, separate and tenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.1 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain the physical elements of the existing building, structure, and portion thereof in a condition as close as reasonably feasible to their orginally [sic] required and approved state by cleaning, painting, staining, or refinishing the physical elements, to wit: hole in ceiling.

MCI 91.8104.1/01

COUNT 12

For a further, separate and twelfth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007, at and in the City of Los

Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 93.0700 of the Los Angeles Municipal Code, pursuant to Article 370-15 of the National Electrical Code, was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain box and conduit box bodies with covers compatible with the box or conduit body construction and suitable for the conditions of use.

MCI 93.0700/NEC370-28(C)/01

COUNT 13

For a further, separate and thirteenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8902.1.12 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain adequate sanitation resulting in general dilapidation or

improper maintenance, specifically failure to abate mold and/or mildew.

MCI 91.8902.1.12/01

COUNT 14

For a further, separate and fourteenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 92.0109 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to provide a minimum of one operational elevator that serves all occupied levels of a building that is four stories or more above grade level.

MCI 92.0109/01

COUNT 15

For a further, separate and fifteenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007

thru August 9, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.302.5 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain at least one hour occupancy separation.

MCI 91.302.5/01

COUNT 16

For a further, separate and sixteenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (A) of Section 57.20.41 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain fire assembly doors, activated by smoke detectors and self-closing devices, that were wedged, blocked,

obstructed and otherwise caused to be impaired from proper operation.

MCI 57.20.41(A)/01

COUNT 17

For a further, separate and seventeenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection D of Section 57.01.35 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain fire equipment in a defective condition and in a state of disrepair.

MCI 57.01.35(D)/01

COUNT 18

For a further, separate and eighteenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of

Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8902.1.13 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain adequate sanitation resulting in general dilapidation or improper maintenance specifically lack of insect screens.

MCI 91.8902.1.13/01

COUNT 19

For a further, separate and nineteenth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.509.1 of the Los Angeles Municipal Cede was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain a guardrail to protect unenclosed floor and roof openings, open and glazed sides of stairways, landings and ramps,

balconies, and porches that are more than 30 inches above grade or floor below, and roofs used for other than service of the building.

MCI 91.509.1/01

COUNT 21

For a further, separate and twenty-first cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 94.103.1 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully add, alter, change, construct, install, locate, maintain, move, occupy, relocate, remove, renovate, repair, replace, and use a plumbing system, water connected dispenser, fire sprinkler system, rainwater piping, standpipe, subsurface drainage piping, swimming pool piping, reclaimed water piping, and underground fire protection piping system except as provided by the Los Angeles Municipal Code, to wit: unpermitted laundry area.

MCI 94.103.1/01

COUNT 22

For a further, separate and twenty-second cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.8104.8.2 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully maintain flexible cords and cables as a substitute for the fixed wiring of a structure.

MCI 91.8104.8.2/01

COUNT 23

For a further, separate and twenty-third cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 93.0201 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last

aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully install, alter, reconstruct or repair electrical wiring without having been issued a separate electrical permit by the Los Angeles Department of Building and Safety, to wit: laundry room.

MCI 93.0201/01

COUNT 24

For a further, separate and twenty-fourth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 94.701.1 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully maintain ABS piping in a building over two stories in height.

MCI 94.701.1/01

COUNT 37

For a further, separate and thirty-seventh cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about June 19, 2007 thru August 9, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 94.0101.5.5 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain plumbing systems, materials and appurtenances, to wit: solar panels.

MCI 94.0101.5.5/01

COUNT 48

For a further, separate and forty-eighth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 9, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 91.310.4 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last

aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did unlawfully maintain a sleeping room below the fourth story that lacked an emergency escape exterior door, and at least one emergency escape window, having a minimum net clear opening height dimension of 24 inches, a minimum net clear opening width dimension of 20 inches, and a finished sill height or not more than 44 inches above the floor.

MCI 91.310.4/01

COUNT 52

For a further, separate and fifty-second cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 13, 2007 thru August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.160 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain a dwelling, house court, hotel, motel and apartment house in good repair, to wit: flooring.

MCI 11.20.160/32

COUNT 53

For a further, separate and fifty-third cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 13, 2007 thru August 22, 2007, at and in the the [sic] City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.160 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain a dwelling, house court, hotel, motel and apartment house in good repair, to wit: plumbing fixtures and/or pipes.

MCI 11.20.160/32

COUNT 54

For a further, separate and fifty-fourth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 13, 2007 thru August 22, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.190 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain in good repair and free dirt, filth and corrosion in each lavatory, bath tub, and shower in said building, to wit: bathtubs.

MCI 11.20.190/32

COUNT 55

For a further, separate and fifty-fifth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 13, 2007 thru August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.340/11.20.140(b)3 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to repair and reconstruct conditions which had rendered said building a substandard dwelling as defined in Section

11.20.340/11.20.140(b)3 of the Public Health Code, to wit: damaged sink, drywall, bathroom door, frame, interior walls, floors, and ceilings.

MCI 11.20.340/32

COUNT 56

For a further, separate and fifty-sixth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 13, 2007 thru August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.340/11.20.140(b)3 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to repair and reconstruct conditions which had rendered said building a substandard dwelling as defined in Section 11.20.340/11.20.140(b)3 of the Public Health Code, to wit: leaking ceiling.

MCI 11.20.340/32

COUNT 60

For a further, separate and sixtieth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 thru August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.140 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did unlawfully fail to maintain free from infestation by insects, vermin and/or rodents.

MCI 11.20.140/32

COUNT 61

For a further, separate and sixty-first cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 thru August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 31.00(a) of the Los Angeles Municipal Code, adopting section 11.30.010 of the Los

Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully permit another person to occupy said building in such condition of construction and maintenance that permitted the breeding and harborage therein and thereon of rodents, fleas, bedbugs, cockroaches, lice, mosquitoes, and other vermin.

MCI 11.30.010/32

COUNT 62

For a further, separate and sixty-second cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.330 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to provide each window and other

opening in the exterior walls of said building with approved screening of at least sixteen (16) inch mesh set in a tight fitting frame.

MCI 11.20.330/32

COUNT 63

For a further, separate and sixty-third cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 thru August 22, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.340/11.20.140(b)3 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to repair and reconstruct conditions which had rendered said building a substandard dwelling as defined in Section 11.20.340/ 11.20.140(b)3 of the Public Health Code, to wit: damaged, missing and/or broken windows, frames, sashes, sills and/or panes.

MCI 11.20.340/32

COUNT 65

For a further, separate and sixty-fifth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 thru August 22, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.160 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain a dwelling, house court, hotel, motel and apartment house in good repair, to wit: failure to maintain and/or replace damaged and/or missing cabinets, medicine cabinets, doors, door hinges and/or door knobs.

MCI 11.20.160/32

COUNT 66

For a further, separate and sixty-sixth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 at and in the City of Los Angeles, in the County

of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.16.020 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain said premises in a clean, sanitary condition, free from accumulation of garbage, rubbish, refuse and other waste.

MCI 11.16.020/32

COUNT 67

For a further, separate and sixty-seventh cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 thru August 22, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.190 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully

and unlawfully fail to maintain all toilet rooms, bath and shower rooms, and utility rooms and the fixtures and equipment therein in a state of good repair and free from corrosion.

MCI 11.20.190/32

COUNT 68

For a further, separate and sixty-eighth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.160 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain a dwelling, house court, hotel, motel and apartment house in good repair, to wit: failure to maintain electrical wiring, light fixtures, plate covers and/or light bulbs.

MCI 11.20.160/32

COUNT 69

For a further, separate and sixty-ninth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.160 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain a dwelling, house court, hotel, motel and apartment house in good repair, to wit: failure to provide, replace and/or repair smoke detectors.

MCI 11.20.160/32

COUNT 70

For a further, separate and seventieth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 2, 2007 thru August 22, 2007, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.160 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain a dwelling, house court, hotel, motel and apartment house in good repair, to wit: failure to maintain kitchen counters and/or walls and ceilings, and/or floors, coverings and/or carpeting.

MCI 11.20.160/32

COUNT 71

For a further, separate and seventy-first cause of action being a, different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.340/11.20.140(b)3 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to repair and reconstruct

conditions which had rendered said building a sub-standard dwelling as defined in Section 11.20.340/ 11.20.140(b)3 of the Public Health Code, to wit: failure to abate nuisance – bedbugs.

MCI 11.20.340/32

COUNT 77

For a further, separate and seventy-seventh cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.340/11.20.140(b)4 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to abate through correction, repair, reconstruction and demolition a condition which had rendered said building a sub-standard dwelling as defined in Section, 11.20.340/ 11.20.140(b)4 of the Public Health Code, to wit: failure to abate mold and/or mildew.

MCI 11.20.340/32

COUNT 81

For a further, separate and eighty-first cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.140 of the Los Angeles County Code (Public Health Code) (adopted by the City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain loose, uneven and/or tilted stair treads.

MCI 11.20.140/32

COUNT 83

For a further, separate and eighty-third cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about August 22, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 11.20.190 of the Los Angeles County Code (Public Health Code) (adopted by the

City of Los Angeles pursuant to Ordinance 164,035) was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of the building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain all toilet rooms, bath and shower rooms, utility rooms and the fixtures and equipment therein in a state of good repair and free from corrosion and with proper ventilation.

MCI 11.20.190/32

COUNT 87

For a further, separate and eighty-seventh cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection A of Section 57.20.15 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, did willfully and unlawfully maintain fire protection equipment, fire assembly, fire protective signaling system, and smoke detector, to wit: fire door, located at 621 SO. UNION AVENUE, in a state of disrepair.

MCI 57.20.15(A)/01

COUNT 88

For a further, separate and eighty-eighth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (C) of Section 57.33.15 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain lighted exit signs, and directional exit signs so that they were clearly visible at every exit door, at the intersection of corridors, at exit stairways and ramps, and at such other locations and intervals as were necessary to provide the occupants with knowledge of means of egress.

MCI 57.33.15(C)/01

COUNT 91

For a further, separate and ninety-first cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the

County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (B) of Section 57.57.06 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain combustible material in a sub-floor area, attic, boiler room, mechanical room, heating equipment room, water heater closet and electrical panel room in a manner which constituted a fire hazard: to wit: basement.

MCI 57.57.06(B)/01

COUNT 93

For a further, separate and ninety-third cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (C) of Section 57.33.14 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to

maintain windows so as to prevent them to remain open while exiting fire escapes.

MCI 57.33.14(C)/01

COUNT 96

For a further, separate and ninety-sixth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (A) of Section 57.33.15 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to maintain exit signs, and directional exit signs at every exit door, at the intersection of corridors, at exit stairways and ramps, and at such other locations and intervals as were necessary to provide the occupants with knowledge of means of egress.

MCI 57.33.15(A)/01

COUNT 100

For a further, separate and one-hundredth cause of action being a different offense, belonging to the same

class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 57.12.02 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain seven (7) feet clearance under roof and antenna, to wit: area behind stairway.

MCI 57.12.02(1)/01

COUNT 101

For a further, separate and one-hundred-first cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (A) of Section 57.33.17 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION

AVENUE, did willfully and unlawfully fail to maintain a stairway identification numbering system.

MCI 57.33.17(A)/01

COUNT 102

For a further, separate and one-hundred-second cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July 25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Subsection (A) of Section 57.33.07 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who, at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully maintain a door which provided exit from said building that required the use of a key, tool and special knowledge and effort to open from the inside of said building.

MCI 57.33.07(A)/01

COUNT 104

For a further, separate and one-hundred-fourth cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about July

25, 2007 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit,

violation of Section 57.138.13 of the Los Angeles Municipal Code was committed by the above-named defendant(s), who at the time and place last aforesaid, being the owner, manager, and person in control of a building located at 621 SO. UNION AVENUE, did willfully and unlawfully fail to identify Fire Department inlet connections.

MCI 57.138.13/01

SUPERIOR COURT FOR THE
STATE OF CALIFORNIA IN AND FOR
THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. MONICA HUJAZI aka MONICA HELENA HUJAZI, Individually and as Trustee of the ZUERCHER TRUST OF 1999; and THE ZUERCHER TRUST OF 1999 Defendants.	CASE NO. 7HY05760 **DEFENDANTS' BRIEF IN OPPOSITION TO STRICT LIABILITY** Date: May 14, 2008 Time: 8:30 A.M. Dept. 78 (Filed May 13, 2008)

I

INTRODUCTION

The law of strict criminal liability has a mottled history at best. Even when being upheld, courts have consistently noted its checkered past, wrinkled their noses, and sought other grounds upon which to affirm convictions, while upholding the validity of strict liability in specific cases. The two leading law review articles on the subject (*Sayre*, Public Welfare Offenses, (1933) 33 Col.L.Rev. 55, 73, 84, (hereinafter "*Sayre*") and *Browne*, California Public Welfare Offenses, (1962) 45 So.Cal.L.Rev. 423 are heavy in their condemnation of the doctrine.

In *People v. Bachrach* (1980) 144 Cal.App.3d Supp. 8, and hence this case, fall into a class of strict liability cases ("public welfare offenses") that have been sanctioned subsequent to the inception of strict liability, which itself is a violation of normal due process standards (i.e., right to put on a defense).

The argument that passive housing violations are the equivalent of strict liability cases is fallacious. As will be shown below strict criminal liability for violations under civil abatement proceedings against landlords (as a class) is a carved addition to the traditional classes of strict liability offenses and cannot be supported by case law.

The intellectual background and reasoning of case law as upholding the principle of strict liability in this matter herein is equally suspect. The California Supreme Court, in *People v. Vogel* (1954) 46 Cal.2d 758, 801-802, 804, 299 P.2d 850, stripped a statute which has formerly been interpreted as being strict liability of its privileged status thereunder, stating:

> "Certainly [the statute's] exclusion [of *mens rea*] cannot be implied from the mere omission of any reference to intent in the definition [of the violation] . . . Such an omission was not meant to exclude intent but to shift to defendant the burden of proving he did not have the requisite intent." (46 Cal.2d at 804.)

This telling statement has been all but ignored by courts as they have accepted prosecutors' attempts to expand the doctrine into other areas. Were the offenses complained of by the People as heinous as they would have the Court believe, they could just as easily have prosecuted this matter under criminal negligence statutes, or the criminal nuisance abatement statutes (P.C. §373a). The problem, of course, is that under such statutes, they would have had to deal with the question of intent.

The extension of so-called public welfare offenses to building and safety code violations, particularly in light of Penal Code provisions relating to criminal negligence and abatement, was not supported in case law at the time *Bachrach* was decided, and is not supported now. While criminal negligence and abatement proceedings have the disadvantage to prosecutors that they must take into account due process requirements they can otherwise avoid under *Bachrach*, the California Supreme Court's interpretation in *Vogel*, *supra*, was correct, and the "absence of language" doctrine means not that a case is to be decided under strict liability, but rather that the burden of proof shifts to the defendant as to the element of intent. A shift in the burden of proof preserves most of the advantages of strict liability to the prosecution, but would allow a defendant to present evidence which is currently excluded from consideration under the strict liability framework. In short, an innocent defendant would have the

opportunity of exonerating him or herself, an option currently unavailable.

II

THE STRICT LIABILITY DOCTRINE DID NOT INCLUDE VIOLATIONS OF LOCAL HOUSING ORDINANCES UNTIL IT WAS EXTENDED BY *BACHRACH*, AND ADEQUATE STATUTES EXIST FOR PROSECUTION OF VIOLATORS OF SUCH ORDINANCES WITHOUT VIOLATING THE DUE PROCESS RIGHTS OF THE ACCUSED

A. In General.

"Under the California Penal Code, 'In every crime or public offense there must exist a union, or joint operation of act and intent, or criminal negligence.'" (Penal Code §20; *Browne*, California's Public Welfare Offenses, *supra* 35 So.Cal.L.Rev. At 424.) "Although a public welfare offense does not require the existence of an unlawful intent, an intent to commit the prohibited act is required. The intent to commit the act coupled with its consummation satisfies the above requirement of 'a joint operation of act and intent.' For example, under a California statute prohibiting the possession of narcotic substances, although a wrongful intent is not a necessary part of the criminal act, there must exist at least an intent to possess the object." (Id., fn. omitted.) Strict liability offenses can be interpreted as legislative judgments that persons who intentionally engage in certain activities and

occupy some peculiar or distinctive position of control are to be held accountable for the occurrence of certain consequences. (Wasserstrom, Strict Criminal Liability, 12 Stan.L.Rev. 731, 743.)

Sayre, in his definitive 1933 treatise on the subject, cites and classifies a large number of cases into rough subdivisions of (1) illegal sales of intoxicating liquor, (2) sales of impure or adulterated foods or drugs, (3) sales of misbranded articles, (4) violations of anti-narcotic laws, (5) criminal nuisances, (6) violations of traffic regulations, (7) violations or motor-vehicle laws, and (8) violations of "general police regulations, passed for the safety, health or well-being of the community." (33 Col.L.Rev. 84; *Morissette v. United States*, (1951) 324 U.S. 246, 262, 96 L.Ed. 288, 300.)[1]

In *Browne's* 1902 treatise he points out that in California, there are essentially four types of strict liability offenses: Buyer-seller; "moral" offenses; statutes prohibiting possession of certain articles, such as weapons or narcotics; and "other" statutes, such as issuing securities without a permit, or an officeholder

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[1] *Sayre* was, as a whole, sharply critical of the entire doctrine. "To inflict, substantial punishment upon one who is morally entirely innocent, who caused injury through reasonable mistake or pure accident, would so outrage the feelings of the community as to nullify its own enforcement." (33 Co.L.Rev. 55, 56; see also Hall, Prolegoniena to a Science of Criminal Law, 89 U. Of Pa.L.Rev. 549, 569. 12 Stan.L.Rev. 731, 13 Stan.L.Rev. 938, 45 Cal.L.Rev. 73.)

who appropriates, converts, profits by or uses money without direct authority of law.

Obviously, landlords have duties to their tenants to maintain the facilities in decent, habitable condition and, likewise, the city and state have rights and obligations to make sure that they do so. But it is ludicrous to suggest that they can criminally prosecute an individual in a strict liability context where they cannot do so in a prosecution of that same individual under Penal Code §373a (criminal abatement), nor could they do so in a criminal negligence proceeding, both of which are clearly applicable to landlords who intentionally fail to properly maintain commercial residential facilities. (*People v. Cooper* [1944] 64 Cal.App.2d Supp. 946, 949, 149 P.2d 86; *Dapper v. Mun. Court* [1068] 276 Cal.App.2d 816, 81 Cal.Rptr. 340; see also *Welton v. City of Los Angeles* [1976] 18 Cal.3d 497, 134 Cal.Rptr. 668, 556 P.2d 1119 [public nuisance statute may only be enforced in manner consistent with constitutional protections; judicial construction must not create uncertainty inhibiting exercise of a constitutional right].)

1. Morissette, McClennegen, and Vogel.

The history and holdings of the *Morissette* decision are well known, and partially reviewed in almost every case that deals with strict liability. Nonetheless, because of the fact that *Morissette* often is selectively quoted (particularly by prosecutors seeking to

ram through convictions), certain aspects of Morissette need to be reviewed herein.

Morissette is fairly straightforward: without any attempts at concealment, an individual removed rusting hulks of used bomb casings from a government bombing range extensively used by hunters and sold them for $84. The man made no attempt to conceal what he had done and believed, in fact, that the government had abandoned the metal. Nonetheless he was indicted, prosecuted and convicted on the charge that they "did unlawfully, willfully and knowingly steal and convert" property belonging to the government, and was prosecuted in strict criminal liability on the grounds that "conversion of government property . . . requires no element of criminal intent." (342 U.S. at 249-250, 96 L.Ed. at 293.)

The U.S. Supreme Court accepted review, thoroughly discussed the history of the doctrine of strict liability and relevant case law, and then reversed the defendant's conviction, holding that notwithstanding the language of the statute, "Congressional silence as to mental elements in an Act merely adopting into federal statutory law a concept of crime already so well defined in common law and statutory interpretation by the states may warrant quite contrary inferences than the same silence in creating an offense new to general law, for whose definition the courts have no guidance except the Act." (342 U.S. at 262, 96 L.Ed. 299.)

> "The Government asks us by a feat of construction radically to change the weights and balances in the scales of justice. The purpose and obvious effect of doing away with the requirement of a guilty intent is to ease the prosecution's path to conviction, to strip the defendant of such benefit as he derived at common law from innocence of evil purpose, and to circumscribe the freedom heretofore allowed juries. Such a manifest impairment of the immunities of the individual should not be extended to common-law crimes on judicial initiative.
>
> . . . . [W]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practices, it presumably knows and adopts the cluster of ideas that were attached to each borrowed work in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless instructed. In such case, absence of contrary direction may be taken as satisfaction with widely accepted definitions, not a departure from them. (342 U.S. 263, 96 L.Ed. 300.)"

The Supreme Court, relying on *Sayre supra*, also pointed out that "in criminal syndicalism or sedition cases, where the pressure to convict is strong, it has been accomplished by dispensing with the element of intention, in some instances by analogy with the public welfare offense. [Citations, including People v. McClennegen] This although intent is of the very essence of offenses based on disloyalty. [Citations] . . .

[I]nnocence of intention will defeat a charge even of treason." (Id., at fn. 21.)

> "We think presumptive intent has no place in this case. A conclusive presumption which testimony could not overthrow would effectively eliminate intent as an ingredient of the offense. A presumption which would permit but not require the jury to assume intent from an isolated fact would prejudge a conclusion which the jury should reach of its own volition. A presumption which would permit the jury to make an assumption which all of the evidence considered together does not logically establish would give to a proven fact an artificial and fictional effect. In either case, this presumption would conflict with the overriding presumption of innocence with which the law endows to the accused and which extends to every element of the crime. Such incriminating presumptions are not to be improvised by the judiciary." (342 U.S. at 275, 96 L.Ed. 306.)

Thus, while *Morissette* upholds the concept of public welfare offenses, it emphatically does not support the extension of strict liability to offenses by mere omission of language. (See also, U.S. *v. Launder*, (1984) 743 F.2d 686, *Liparota v. United States* (1985) 471 U.S. 419, 426, 85 L.Ed.2d 105 S.Ct. 2084; accord, *U.S. v. Anderson* 1989) 885 F.2d 1248, 1253, *US. v. Semetiza* (9th Cir. 1987) 835 F.2d 223, 224.)

People v. McClenneen, (1925) 195 Cal. 445, 469, 234 P.91, was one of the criminal syndicalism cases

criticized in *Morissette*. In this case, 25 "officers, directors or leaders" of the IWN were prosecuted under the Criminal Syndicalism Act (Stats. 1919, Chap. 188), which made membership in the organization illegal, and for inciting strikers at a prolonged strike in San Pedro in 1922-23 *inter alia*, the California Supreme Court, following the line of cases founded by *State v. Hennessy*, (1919) 114 Wash. 351, 195 P. 21 that analogized the matter to a "public welfare offense," found "it is not necessary that in every instance that such person will have a specific intention to violate a law; it is sufficient that he intentionally commits the forbidden act." (195 Cal. At 469; emphasis added.) The Supreme Court went on to state:

> "*An accused may meet the charge by proof* that he was ignorant of its criminal purposes or that he was induced by fraud or misrepresentation to become a member of said organization and was ignorant of its purposes. Of course, if he remained a member and became active in teaching and advocating its doctrines as was done in the instant case, such conduct would itself be evidence of knowledge of its evil purposes." (Id. At 471); emphasis added.)

Thus, (notwithstanding the offensiveness of the case to modern sensibilities), while *McClennegen* upholds the concept of "strict liability," its language is not the language of strict liability; there must be the *intentional* commission of an act forbidden, and circumstantial evidence is required to establish *mens rea*. Likewise, it implicitly argues that an accused

may rebut the presumption and that it is the accused burden, not the prosecution's, so to do.

The reasoning intimated in *McClennegen* becomes express in *Vogel*. "In California, the crime of bigamy was originally interpreted as a public welfare offense." (*Browne*, California's Public Welfare Offenses, *supra*, 35 So.Cal.Rev. At 427-428.) Due to many harsh decisions, the Supreme Court re-evaluated this position, and held that it would not be reasonable to hold the defendant guilty of bigamy if he remarried in reliance on a judgment of divorce or annulment subsequently found to be void:

> "The severe penalty imposed for bigamy, the serious loss of reputation conviction entails, the infrequency of the offense, and the fact that it has been regarded for centuries as a crime involving moral turpitude, makes it extremely unlikely that the legislature meant to include the morally innocent to make sure the guilty did not escape. . . . As in other crimes, there must be a union of act and wrongful intent . . . sections 281 and 282 do not expressly exclude it nor can its exclusion therefrom be reasonably implied. . . . Certainly its exclusion cannot be implied from the mere omission of any reference to intent in the definition of bigamy. . . . Such an omission was not meant to exclude intent but to shift to defendant the burden of proving that he did not have the requisite intent." (46 Cal.2d at 801, 802, 804, 299 P.2d at 853, 855.)

As the commentary in the USC Law Review aptly notes, "[t]he *Vogel* case leads to a logical and sensible results." (35 So.Cal.L.Rev. At 428.) Indeed it is respectfully submitted that for all cases "susceptible to interpretation" which do not fall into the "traditional" category of strict liability offenses, or, like Rev. & Taxation Code §19401 which expressly state that they are to be interpreted in strict liability, there are compelling arguments for a non-strict liability approach. The accused is preserved a chance of exoneration if, and only if, he, she or it can prove to a court or jury that the requisite intent was not there. The prosecution, of course, has the right to rebut and the presumption lies with the People. The People would still be able to obtain a great number of convictions; but consideration of all of the available evidence, including, for example, that defendant was actively attempting to abate the problems at the time that charges were filed, the objective impossibility of meeting the deadlines set by the City, the City's own unclean hands in this matter, and the results of such abatement, would be admissible for consideration by court and jury.

2. Other Federal Cases.

The established interpretation of the strict liability doctrine in California falls back upon the language of *In Re Marley* (1946) 29 Cal.2d 525 to hold that "where qualifying words such as knowingly, intentionally, or fraudulently are omitted from the provisions creating the offense it is held that guilty

knowledge and intent are not elements of the offense." This interpretation is at almost total variance with a line of federal cases which have significantly narrowed the applicability of strict liability under *Morissette* to a class of crimes where there is no safe use, such as drugs, certain types of firearms, and hazardous waste.

The Court in *U.S. v. Launder*, (1984) 743 F.2d 686, like the Supreme Court in *Morissette*, accepts the fact that there are such things as strict liability crimes; however, they "remain the exception in our criminal law system, not the rule." (743 F.2d at 690.) Indeed, *Lauder* follows *Morissette* in holding that strict liability situations are extremely limited and enthusiasm on the part of prosecutors to convict everyone they charge is not an *ipso facto* basis for dispensing with *mens rea* because the statute fails to use the word "intentionally."

The *Launder* court also explicitly rejected the interpretation relied upon by the *Bachrach* court in its interpretation of *In Re Marley*, *supra*, saying:

> "The language of 18, U.S.C. §1856 in no way suggests that Congress intended to impose strict criminal liability. It is significant that in §1856 Congress did not choose to make the act of lighting a fire in United States forest land *per se* illegal. Rather, in that statute Congress chose to impose liability when an individual "*permits or suffers said fire to burn or spread beyond his control.*". . . . [Emphasis in original.] *That is*

> *not the language of strict liability*. [Emphasis added.] the legal terms 'permitting' and 'suffering' *clearly require a willful act or a willful failure to act* [Emphasis added] in the fact of a clear opportunity to do so. Blacks Law Dictionary (5th ed. 1979) defines 'permit' as follows: To suffer, allow, consent, let; to give leave or license, to acquiesce, by failure to prevent, or to expressly assent or agree to the doing of an act. [Citation.] Suffer is defined . . . as follows: To allow, to admit, or to permit. It includes knowledge of what is to be done under sufferance. To suffer an act to be done or a condition to exist is to permit or consent to it; to approve of it, and not hinder it. *It implies knowledge, a willingness of the time and responsible control of ability to prevent.* (743 F.2d at 689; emphasis in original.)

III

ALL OF THE OFFENSES CHARGED AGAINST DEFENDANTS HEREIN REQUIRE NOTICE AND OPPORTUNITY FOR APPEAL OR HEARING; AND THUS ARE NOT STRICT LIABILITY OFFENSES

The application of the doctrine of strict liability to the offenses charged requires more than the mere consideration of the evil sought to be prevented by the enactment of the statute. (See, e.g., *People v. Bachrach* (1980) 144 Cal.App.3d Supp. 8, 12, ["whether a legislative body intended the doctrine of strict

liability to apply to a given statute is determined by the subject matter, the language, the evil sought to be prevented. . . ." [Emphasis added]); See also *Fremont Union High School District v. Santa Clara County Board of Education* (1991) 235 Cal.App.3d 1182, 1183 (unless a party seeking an alternative construction can demonstrate natural and customary import of the statute's language is either repugnant to the general purview of the act or for some other reason should be disregarded, court must give effect to the statute's plain meaning); *Matter of Thalheim* (5th Cir. 1988) 853 F.2d 383. 384 (specific words within statute may not be read in isolation from remainder of entire statutory scheme").

Thus, while both *Morissette v. U.S. supra*, and *People v. Bachrach*, *supra*, identify crimes that may be defined without a *mens rea* element (which obviate the notice requirement), the holding of *Morissette* ". . . . in no way [alters] accepted modes of statutory construction to be applied in determining the standard of liability which (the legislature) intends." *U.S. v. Launder* (9th Cir. 1984) 743 F.2d 686, 690.) The offenses Hujazi is charged with herein spring from provisions of the Los Angeles Health Code (as adopted by the Los Angeles Municipal Code, hereinafter "LAMC"), the Los Angeles Municipal Fire Code and LAMC Building Code. All of these Codes contain appeal and/or hearing provisions, or are subject to preemptive state laws requiring hearings. The Fire Code appeal provisions are contained in §§57.01.28(a) and (c) of the LAMC. All Building Code counts of the

instant prosecution are subject to administrative appellate procedures as provided in LAMC §§98.0403.1(b) and 98.0403.2. Finally, all of the Health Code counts are subject to appeal pursuant to the provisions of Health & Safety Code §17920.6. (cf. *Briseno v. City of Santa Ana* (1992) 6 Cal.App.4th 1378, 8 Cal.Rptr. 486; Health & Safety Code §§17920, et. seq., provisions preempt local ordinances except where such ordinances comply with provisions set forth for variation in §§17958.5 and 17958.71.)

CONCLUSION

From all of the above, we submit that the rationale underlying *Bachrach* is, at best, a "stretch" of the doctrine of strict liability well beyond justifiable limits. The statutory basis for a finding of strict liability should be strictly construed. If, as here, criminal statutes specifically related to the same type of offense are not held to be strict liability statutes, then we submit that it is a violation of due process for a defendant in a prosecution arising out of an essentially "civil" housing code violation case (where compliance and *not* criminality should be the standard) not to be afforded the same notice and due process protections which she would under an essentially identical criminal statute, merely because of the "omission of language" in the housing code case.

In an Op-Ed piece appearing in the May 19, 1994, issue of the "Los Angeles Times," USC Law Professor Erwin Chemerinsky and then Los Angeles

attorney Richard Mosk argue that gun manufacturers should be held "strictly liable" for any injuries or damages caused by their guns. "Under established law, manufacturers and sellers are 'strictly liable' for harms caused by their ultra-hazardous products and activities," write the authors. "For example, those who manufacture, distribute or use explosive or toxic material or who keep dangerous animals are subject to strict liability."

The theory behind the application of the Draconian "strict liability" standard to some in society is that "although they may engage in lawful, non-negligent activity, manufacturers should not subject innocent victims to risks and injuries that the use of their products *uniquely* causes. . . . A handgun is an abnormally dangerous product, and its manufacture and sale are ultra-hazardous activities," say Chemerinsky and Mosk.

Does the definition apply to apartments? Is the rental of apartment units an ultra-hazardous" activity? Are apartments "abnormally dangerous?" "Yes," said the *Bachrach* court. The "strict liability" standard of guilt applies and the existence of cracked plaster or worn carpeting constitute criminal violations which can result in an apartment owner going to jail!

Under *Bachrach*, a fine distinction of what we are dealing with does not matter. The "strict liability" standard of guilt applies to the owners and providers of residential housing the same as it does to the

manufacturers of dynamite or Agent Orange, or to Seigfried and Roy, says the *Bachrach* court.

The apartment industry has taken the prosecutions and railroading long enough. It is time either for the court to re-visit the *Bachrach* decision and stop convicting apartment owners by rote, or for the City, County and State to pass legislation setting negligence (i.e., failure to exercise reasonable care in the inspection for, detection of and repair of housing code violations after notice and reasonable time to repair, giving due consideration of the cause of the problem [the actual "perp"], the history of the problem and the amount of time, effort and money spent to correct the problem) as the standard for determining guilt for housing code vitiations.

The "strict liability" standard used to convict apartment owners is bad enough, leaving aside for the moment the fact that the violations involved can amount to "whim and caprice" type problems, sometimes overlooked, sometimes cited, sometimes amounting to little more than "attitude citations," without any objective standards. Jail is the only objective condition owners can look forward to under *Bachrach*. Our administrative, legislative and judicial branches should be held "strictly liable" for allowing the *Bachrach* outrage to exist.

United States v. Park 421 U.S. 658, 95 S.Ct. 1903 (1975) is noteworthy, because for the first time the United States Supreme Court recognized that there was a defense to strict liability, the defense of

"objective impossibility." In other words, the defendant in a strict liability case could offer evidence that it was an "objective impossibility" for the defendant to prevent the violation. The court, while it did not define "objective impossibility," did imply that the burden shifts to the defense to produce evidence that the defendant was powerless to prevent the violation; the burden then remains with the government to prove beyond a reasonable doubt that it was not impossible to prevent the offense.

Whereas here, the defendant produces some evidence of the impossibility to prevent the conditions for which she has been cited, the Court should consider that the burden is on the government to prove that it was possible for the defendant to prevent the violation. See *United States v. Starr*, 535 F.2d 508, (9th Cir.), Cert. Denied 429 U.S. 828.

COURTS SHOULD NOT IMPOSE LIABILITY WHERE DEFENDANT IS POWERLESS TO ACT

The concept of "strict liability" means no requirement of *mens rea*, i.e., no, guilty knowledge or evil or wrongful purpose, it means, in some circumstances, that a criminal prosecution may take place where the defendant does not even know the facts which result in criminal liability. Then too, in many circumstances, the defendant is powerless to act, but despite this fact, criminal liability is imposed.

In People v. Bachrach (1980) 114 Cal.App.3d Supp. 8, 170 Cal.Rptr. 773, the Appellate Department of the Los Angeles County Superior Court held that: offenses with which defendant was charged, violations of municipal code provisions relating to public safety and fire prevention as applied to multiple residents' apartments, were against public health and safety and against the public welfare and, as such, did not require proof of intent nor of criminal negligence, but were governed by rules of strict liability. In effect, this means that there is no defense to charges of housing code violations.

It is Monica Hujazi's contention that there are circumstances that warrant a factual defense, and the jury should be permitted to consider such defenses. For example, there may be circumstances where lack of knowledge of the facts constituting the violation may be a defense. Also, under some circumstances it is objectively impossible for a defendant to prevent violations of the housing code. If this is the situation, then defendant should be able to produce evidence that she was powerless to prevent the violation. These defenses are virtually all but impossible to put before the court.

The above defenses to strict liability are not foreign to the court as the United States Supreme Court in *Park*, *supra*, recognized as a defense that it was an "objective impossibility" for defendant to prevent the violation. The court also implied that the burden then shifts to the government to prove beyond a reasonable doubt that it was not impossible to

prevent the offense. Again, *Bachrach* prevents this kind of evidence ever being placed before the court and jury. Appellant contends that courts should be instructed to follow *Parks supra*, *thus* in effect reversing *Bachrach*, *supra*.

Respectfully Submitted,

Dated: May 10, 2008 /s/ Harold Greenberg

Harold Greenberg,
Bar #40827
Law Firm of
Harold Greenberg

SUPERIOR COURT OF
THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DEPARTMENT 78 HON. DAVID W. STUART, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. MONICA H. HUJAZI, DEFENDANT.	No. 7HY05760

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MAY 14, 15, 16, 19, 20, 2008

APPEARANCES:

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CITY ATTORNEY
BY: MICHAEL DURAN, DEPUTY
– AND –
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VOLUME 1 OF 3 KELLEY WARREN,
CSR #7929
OFFICIAL REPORTER

* * *

[36] HOLLYWOOD, CALIFORNIA;
THURSDAY, MAY 15, 2008
10:30 A.M.

DEPARTMENT 78 HON. DAVID W. STUART,
JUDGE

(APPEARANCES AS HERETOFORE NOTED.)

THE COURT: OKAY. LET'S GO BACK ON THE RECORD IN PEOPLE VERSUS HUJAZI. OUR TRIAL MATTER IS 7HY05760. THE PROBATION CASE IS 3CR02910. THE DEFENDANT IS PRESENT AND REPRESENTED. THE PEOPLE ARE REPRESENTED. WE'RE OUTSIDE THE PRESENCE OF THE JURY. WE ARE 8 OF 10 FOR TRIAL. AND WE ARE HANDLING PRETRIAL MOTIONS.

SO THE FIRST ISSUE I WANT TO RESOLVE IS THE ISSUE OF STRICT LIABILITY. AND I'VE READ ALL THE PAPERS. I'VE READ THE BACHRACH CASE. AND MY TENTATIVE RULING IS THAT THIS CASE IS EXACTLY LIKE BACHRACH. THESE ARE EXACTLY THE TYPE OF REGULATORY AND PUBLIC HEALTH-AND-SAFETY-TYPE ORDINANCES THAT – THAT ARE STRICT LIABILITY, BASED ON THE READING OF THE STATUTES THEMSELVES, WHICH MAKE NO MENTION OF ANY WILLFULNESS OR KNOWLEDGE COMPONENTS. AND ALL THE STATUTES

ARE WORDED IN TERMS OF THE BUILDING SHALL HAVE X, THE BUILDING SHALL HAVE Y, THE WALLS SHALL BE SO FORTH. I'LL GIVE YOU A CHANCE TO CHANGE MY MIND, MR. GREENBERG, BUT THAT'S MY THINKING. I LOOKED AT THE MORISSETTE CASE. THAT WAS A THEFT-RELATED OFFENSE WHICH IS COMPLETELY DIFFERENT THAN THE TYPE OF HEALTH-AND-SAFETY/PUBLIC-WELFARE-TYPE OFFENSES THAT [37] WERE DEALT WITH IN BACHRACH AND ARE BEING DEALT WITH HERE.

SO GO AHEAD – UNLESS YOU WANT TO SUBMIT.

MR. GREENBERG: YOUR HONOR, I APPRECIATE THE OPPORTUNITY, PARTICULARLY SINCE THE COURT MENTIONED THE TERM WILLFULLY. AND WILLFULLY, TO ME, GOES TO INTENT. IT'S INTENTION. AND IF WE LOOK AT PAGE 6, COUNT 12, "DID WILLFULLY AND UNLAWFULLY . . . " IF WE TAKE A LOOK AT PAGE 8, COUNT 16, "DID WILLFULLY AND UNLAWFULLY . . . " IN 16. AND 17, "WILLFULLY AND UNLAWFULLY."

THE COURT: YOU ARE TALKING ABOUT THE AMENDED COMPLAINT?

MR. GREENBERG: YES.

THE COURT: ALL RIGHT. WHERE –

MR. GREENBERG: I'LL REPEAT IT SO THE COURT CAN FOLLOW WHAT I'M SAYING.

IF WE TAKE A LOOK AT PAGE 6, COUNT 12, IT TALKS IN TERMS OF WILLFULLY. THAT'S AN EQUIVALENT OF INTENTIONAL. IT GOES TO INTENT. THAT WOULD GO TO COUNT 12, THAT WOULD GO TO COUNT 16, 17, 53, 54, 55, 56, 61 –

MR. DURAN: YOUR HONOR, THE PEOPLE WILL STIPULATE THAT THE WORD WILLFULLY APPEARS IN THE COMPLAINT. DO YOU THINK WE COULD MOVE ON?

MR. GREENBERG: WELL, IF HE WILL STIPULATE THAT IT APPEARS IN THE COMPLAINT, YOUR HONOR, THAT'S NOT WITHIN THE PURVIEW OF BACHRACH BECAUSE WILLFULLY IS A STATE OF MIND THAT MEANS INTENTIONAL. IT'S NOT STRICT LIABILITY. IF [38] WE'RE GOING UNDER THE THEORY OF BACHRACH AND, IN LOOKING AT BACHRACH, IT IS AN APPELLATE DEPARTMENT CASE THAT ONLY, APPARENTLY, AFFECTS THE COUNTY OF LOS ANGELES. IT'S NEVER GONE HIGHER. IT'S NEVER BEEN OVERRULED. IT'S NEVER BEEN, ACTUALLY, AFFIRMED IN THAT SENSE. WHEN YOU TAKE A LOOK AT IT, AND IF YOU LOOK AT THE THEORY OF BACHRACH, AND IN OTHER CASES THAT HAVE BEEN CITED, YOU'RE TALKING WHERE THERE'S HARMFUL EFFECTS TO A GENERAL POPULACE. THIS IS ONE BUILDING. THIS IS APPROXIMATELY 60-SOMETHING UNITS.

AND WE'RE TALKING ABOUT A BUILDING, UNDER THESE CIRCUMSTANCES, THAT A SMALL PORTION HAVE BEEN AFFECTED. AND WHEN WE'RE TALKING ABOUT A WHOLE THEORY OF BACHRACH AND A WHOLE THEORY OF STRICT LIABILITY, YOU'RE TALKING ABOUT SOMETHING WHERE – WE QUOTE THE CASES – THAT IS DISFAVOR, AND THAT IS, IN RECENT CASES, INCLUDING WHAT HAS BEEN CITED BY COUNSEL IN THE CORIA CASE IN HIS OWN PAPERS. AND WHEN WE LOOK AT THAT PARTICULAR SITUATION, YOU ALSO GET IN A SITUATION THAT IT GOES INTO THE AREA OF THE SIXTH AMENDMENT AND THE FIFTH AMENDMENT. THESE ARE FEDERAL CONSTITUTIONAL ISSUES, BECAUSE IT DEPRIVES MY CLIENT OF THE ABILITY TO PRESENT HER CASE TO THE JURY AND, IN ESSENCE, ON THESE PARTICULAR POINTS, IS A DIRECTED VERDICT TO THE JURY. IT'S ALMOST AS IF YOU DO NOT HAVE AN ATTORNEY REPRESENTING YOU. IT'S ALMOST AS IF YOU'RE BEFORE A JURY AND YOU CANNOT PUT ON A DEFENSE BECAUSE, PARTICULARLY WHERE YOU HAVE WILLFULLY IN THESE COUNTS THAT I MENTIONED, AND IT'S IN 31 COUNTS, HOW CAN YOU HAVE STRICT LIABILITY WHEN THE ISSUE IS WILLFULLY?

[39] THE COURT: I AGREE. SO, OBVIOUSLY, WE CAN'T HAVE BOTH. SO WHAT DO

YOU SAY TO THAT, TO THE LANGUAGE OF WILLFULLY IN THE COMPLAINT?

MR. DURAN: FIRST OF ALL, YOUR HONOR, OUR OFFICE, THE CITY ATTORNEY'S OFFICE, IS STILL FUNCTIONING, IN MANY RESPECTS, IN THE 19TH CENTURY, IN TERMS OF THE PRACTICE OF LAW. THE COMPLAINT LANGUAGE IS GENERATED AUTOMATICALLY BY A COMPUTER. IT HAS NOT BEEN CHANGED SINCE I STARTED WITH THIS OFFICE IN AUGUST OF 1989. IT'S A PROBLEM THAT WE'VE COME UP WITH THE FACT THAT WHAT THE COMPUTER SAYS IS THE CHARGE IS WHAT GETS PUT INTO THE DOCUMENT, WHETHER OR NOT THE ATTORNEY AGREES. AND YOU HAVE TO MANUALLY TAKE STUFF OUT TO CORRECT THAT. SO I WANT TO SAY, FIRST OF ALL, THIS IS – THIS DOES NOT GO TO THE HEART OF WHAT YOUR HONOR HAS TO DECIDE, NUMBER 1. NUMBER 2, THE LAW THAT GOVERNS YOUR HONOR IS WHAT THE COURT WILL BE INSTRUCTING THE JURY.

THE COURT: I UNDERSTAND. SO YOU ARE NOT GOING TO BE RELYING ON THAT LANGUAGE IN THE COMPLAINT?

MR. DURAN: NO, NO.

THE COURT: OKAY. SO IT'S A MATTER OF AMENDING THE COMPLAINT THEN.

MR. DURAN: THAT WOULD BE FINE. THE PEOPLE WOULD MOVE TO STRIKE THE WORD WILLFULLY WHERE IT APPEARS IN THE COMPLAINT BECAUSE IT IS THE PEOPLE'S THEORY UNDER BACHRACH –

THE COURT: I AGREE. I DON'T THINK THE COMPLAINT NECESSARILY CONTROLS. IF THERE IS LANGUAGE IN THE COMPLAINT – WHAT CONTROLS IS THE LANGUAGE OF THE STATUTE [40] AND THE INTENT OF THE LEGISLATURE AND THE LAW CONTROLLING IT. SO IF A WORD HAPPENS TO APPEAR IN THE COMPLAINT, I DON'T THINK THAT THAT BINDS ME OR THE PEOPLE OR THE JURY TO DECIDE A CASE IN A CERTAIN WAY. IF – IF A COMPLAINT HAPPENED TO BE SPIT OUT WITH SPECIFIC INTENT LANGUAGE, THAT WOULDN'T AUTOMATICALLY MAKE THESE CHARGES SPECIFIC INTENT CRIMES. SO – ALL RIGHT. SO – SO HOW DO YOU WANT TO HANDLE THE COMPLAINT THEN?

MR. DURAN: WELL, YOUR HONOR, PERHAPS – I JUST MADE AN ORAL MOTION TO STRIKE THE WORD WILLFULLY WHERE IT APPEARS – WHERE IT APPEARS IN THE COUNTS. I WOULD ASK, IF THE COURT IS GOING TO GRANT THAT MOTION, THAT WHEN THE COURT READS, IF THE COURT READS THE COMPLAINT TO THE JURY, AND MAYBE YOU WON'T, YOU JUST DON'T SAY THE WORD WILLFULLY. AND, FOR THE RECORD, I BELIEVE

THAT WHEN WE GET TO JURY INSTRUCTIONS, IF THE COURT'S TENTATIVE STANDS, IT WILL BE ABUNDANTLY CLEAR WHEN THE COURT INSTRUCTS THE JURY WHAT STRICT LIABILITY MEANS.

THE COURT: RIGHT, IF THE TENTATIVE RULING STANDS THEN WHAT COUNTS IS HOW THE JURY IS INSTRUCTED. SO DO YOU HAVE ANYTHING ELSE, MR. GREENBERG?

MR. GREENBERG: YOUR HONOR, JUST SO IT'S IN THE RECORD, I THINK CORIA, WHICH HAD BEEN CITED BY COUNSEL, IS C-O-R-I-A. IT'S 21 CAL.4TH, 868. AND IT TALKS IN TERMS – AND THAT'S A 1999 CASE ABOUT THE PREVAILING TREND IS AWAY FROM IMPOSITION OF CRIMINAL SANCTIONS. WE WERE TALKING ABOUT STRICT LIABILITY. WHAT I HAD MENTIONED BEFORE, AND I WANT TO MAKE SURE IT IS CLEAR, WE'RE TALKING ABOUT THE DUE [41] PROCESS SITUATION, AND THE COMPULSORY PROCESS OF AN ATTORNEY BEING ABLE TO PUT ON A DEFENSE. IN ESSENCE, WHEN YOU ARE PUTTING ON A STRICT LIABILITY CASE, PARTICULARLY IN SITUATIONS LIKE THIS – BECAUSE MOST OF THE CASES THAT ARE CITED ARE, ESSENTIALLY, WHERE THERE'S HARM TO THE GENERAL POPULATION. WE'RE TALKING ABOUT EXPLOSIVE, WE'RE TALKING ABOUT GUNS, WE MAY BE TALKING ABOUT FOOD, WE MAY BE TALKING ABOUT MEDICINE THAT IS PUT INTO

THE GENERAL ECONOMY AND INTO THE MAINSTREAM. THAT'S NOT WHAT YOU HAVE HERE. AND THAT'S WHAT I'M PRESENTING TO THE COURT. JUST SO THE RECORD IS CLEAR.

THE COURT: OKAY. ALL RIGHT. WELL, I DO FIND THAT THIS CASE IS JUST LIKE BACHRACH. THESE TYPES OF OFFENSES ARE THE SAME REGULATORY TYPES OF OFFENSES THAT ARE STRICT LIABILITY DEFENSES. I UNDERSTAND THAT THAT'S A VERY SLIM EXCEPTION IN THE LAW, STRICT LIABILITY, BUT IT DOES EXIST, AND I THINK THAT – THAT THESE PARTICULAR CHARGES ARE STRICT LIABILITY OFFENSES BASED ON THE LANGUAGE OF THE MUNICIPAL CODE STATUTE AND THE NATURE OF THE OFFENSES THEMSELVES. SO IT DOESN'T PREVENT YOU FROM PUTTING ON A DEFENSE, IT JUST – IT JUST CHANGES THE NATURE OF THE DEFENSE. YOU ARE FREE TO ATTACK THE FACTUAL ALLEGATIONS OF WHETHER OR NOT ANY OF THESE CHARGES OCCURRED AND – OKAY.

SO I WILL GRANT THE PEOPLE'S MOTION TO AMEND THE AMENDED COMPLAINT NOW TO STRIKE THE WORD WILLFULLY WHEREVER IT APPEARS.

MR. DURAN: THANK YOU.

* * *

SUPERIOR COURT OF
THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DEPARTMENT 78 HON. DAVID W. STUART, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. MONICA H. HUJAZI, DEFENDANT.	No. 7HY05760

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MAY 21, 22, 23, 27, 28, 29, 2008

APPEARANCES:

FOR THE PEOPLE: ROCKARD J. DELGADILLO,
CITY ATTORNEY
BY: MICHAEL DURAN, DEPUTY
– AND –
PEJMON SHEMTOOB,
ATTORNEY AT LAW
200 NORTH MAIN STREET
5TH FLOOR
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT: HAROLD GREENBERG,
ATTORNEY AT LAW
2263 SOUTH HARVARD
BOULEVARD
LOS ANGELES, CALIFORNIA
90018-2143

VOLUME 2 OF ____ KELLEY WARREN,
CSR #7929
OFFICIAL REPORTER

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* * *

[480] THE CLERK: IN THE SUPERIOR COURT OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

THE PEOPLE OF THE STATE OF CALIFORNIA VERSUS MONICA HUJAZI, CASE NUMBER 7HY05760.

WE, THE JURY IN THE ABOVE-ENTITLED CAUSE, FIND THE DEFENDANT – THE DEFENDANT, MONICA HUJAZI, GUILTY OF THE OFFENSE CHARGED IN COUNT 1 OF THE COMPLAINT, 91.310.9.1.1 OF THE LOS ANGELES MUNICIPAL CODE, TO WIT, FAILURE TO PROVIDE SMOKE DETECTORS.

DATED MAY 28TH, 2008.

JURY FOREPERSON, SEAT NUMBER 4.

THE COURT: COUNSEL, AS I STATED EARLIER, I PROPOSE, BECAUSE OF THE NUMBER OF THE VERDICTS, TO SIMPLY HAVE MY CLERK READ, FROM THIS POINT ON, JUST THE COUNT AND THE VERDICT WITHOUT THE CODE SECTION OR THE NAME OF THE CHARGE.

IS THAT ALL RIGHT WITH YOU, MR. GREENBERG?

MR. GREENBERG: YES, YOUR HONOR.

THE COURT: MR. DURAN?

MR. DURAN: YES, YOUR HONOR.

THE COURT: ALL RIGHT. SO GO AHEAD.

THE CLERK: IN THE SAME TITLE, COURT AND CAUSE, AS [481] TO COUNT 3, GUILTY.

AS TO COUNT 4, GUILTY.

AS TO COUNT 5, GUILTY.

AS TO COUNT 6, GUILTY.

AS TO COUNT 7, GUILTY.

AS TO COUNT 8, NOT GUILTY.

AS TO COUNT 9, GUILTY.

AS TO COUNT 10, NOT GUILTY.

AS TO COUNT 12, NOT GUILTY.

AS TO COUNT 13, GUILTY.

AS TO COUNT 14, GUILTY.

AS TO COUNT 15, GUILTY.

AS TO COUNT 16, GUILTY.

AS TO COUNT 17, NOT GUILTY.

AS TO COUNT 18, GUILTY.

AS TO COUNT 19, GUILTY.

AS TO COUNT 21, GUILTY.

AS TO COUNT 22, NOT GUILTY.

AS TO COUNT 23, GUILTY.

AS TO COUNT 24, GUILTY.

AS TO COUNT 37, NOT GUILTY.

AS TO COUNT 48, GUILTY.

AS TO COUNT 52, GUILTY.

AS TO COUNT 53, GUILTY.

AS TO COUNT 54, GUILTY.

AS TO COUNT 55, GUILTY.

AS TO COUNT 56, GUILTY.

AS TO COUNT 60, GUILTY. DATED MAY 29TH, [482] 2008.

AS TO COUNT 61, GUILTY. DATED MAY 28TH, 2008.

AS TO COUNT 62, NOT GUILTY. DATED MAY 29TH, 2008.

AS TO COUNT 63, GUILTY. DATED MAY 28TH, 2008.

AS TO COUNT 65, GUILTY. SAME DATE, MAY 28TH, 2008.

AS TO COUNT 66, GUILTY. DATED MAY 29TH, 2008.

AS TO COUNT 67, GUILTY.

AS TO COUNT 68, GUILTY. DATED MAY 28TH, 2008.

AS TO COUNT 69, GUILTY.

AS TO COUNT 70, GUILTY.

AS TO COUNT 71, GUILTY – I'M SORRY. AS TO COUNT 71, NOT GUILTY.

AS TO COUNT 77, GUILTY.

AS TO COUNT 81, GUILTY.

AS TO COUNT 83, NOT GUILTY.

AS TO COUNT 87, GUILTY.

AS TO COUNT 88, GUILTY.

AS TO COUNT 91, NOT GUILTY.

AS TO COUNT 93, GUILTY.

AS TO COUNT 96, GUILTY.

AS TO COUNT 100, NOT GUILTY.

AS TO COUNT 101, GUILTY.

[483] AS TO COUNT 102, NOT GUILTY.

AS TO COUNT 104, GUILTY.

LADIES AND GENTLEMEN OF THE JURY, ARE THESE YOUR VERDICTS, SO SAY YOU ONE, SO SAY YOU ALL?

(THE JURORS ANSWERED COLLECTIVELY IN THE AFFIRMATIVE.)

* * *

APPELLATE DIVISION
OF THE SUPERIOR COURT
STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. MONICA HUJAZI, Defendant and Appellant.	BR 046588 Central Trial Court No. 7HY05760 **ORDER** (Filed Nov. 25, 2009)

The petition of appellant for a rehearing and for transfer to the Court of Appeal is denied.

/s/ P. McKay
P. McKay, P.J.

/s/ F. Wasserman
Wasserman, J.

/s/ A. Dymant
Dymant, J.

Los Angeles (City) Municipal Code
American Legal Publishing Corporation

Building Regulations

ARTICLE 1, DIVISION 3

USE OR OCCUPANCY

(Division Amended by Ord. No. 172,592, Eff. 6/28/99, Oper. 7/1/99.)*

Section 91.300 Basic Provisions.

SEC. 91.300. BASIC PROVISIONS.

Chapter 3 of the C.B.C. is hereby adopted by reference.

* * *

BUILDING REGULATIONS

ARTICLE 1, DIVISION 5

GENERAL BUILDING HEIGHTS AND AREAS

(Title and Division Amended by Ord. No. 179,324, Eff. 12/10/07, Oper. 1/1/08.)

Section 91.500 Basic Provisions.

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* The following sections in Division 3 are deleted in entirety by Ord. No. 172,592:

91.301; 9.303; 91.305; 91.307; 91.308, 91.310 thru 91.312.

SEC. 91.500. BASIC PROVISIONS.

Chapter 5 of the CBC is hereby adopted by reference.

* * *

BUILDING REGULATIONS

SEC. 91.8104. BASIC MAINTENANCE AND REPAIR OF EXISTING BUILDING AND PREMISES.
(Added by Ord. No. 171.175, Eff. 7/25/96.)

* * *

91.8104.4. The walls and ceilings of every room in every building, structure or portion thereof shall be finished, sealed, coated, painted, or covered in an approved manner so as to maintain them in a clean and sanitary condition. Loose wallpaper or other surfacing shall be removed or repaired so as to provide a smooth, tight-fitting, clean and sanitary surface.

BUILDING CODE

91.8104.6. The floor and floor covering of every room in every building, structure or portion thereof shall be maintained in a clean and sanitary condition. The floor and covering shall be maintained free from defects, holes, loose, worn or missing portions which could present a safety hazard to occupants.

91.8104.7. The plumbing fixtures, shower enclosures, wastewater drain lines, water supply lines, counters, drainboards and adjoining wall and floor areas provided to protect against water damage in every building or structure shall be maintained in good repair and in a clean and sanitary condition.

Leaking drain or supply lines shall be repaired or replaced. Cracked, chipped or damaged fixtures shall be repaired or replaced. All surfaces provided to protect against water damage shall be without cracks, defects or missing portions. All fixtures, enclosures, counters and surfaces shall be kept in a clean and sanitary condition free from dirty or foreign materials.

91.8104.8.1. The electrical service, lines, switches, outlets, fixtures and fixture coverings and supports in every building or structure shall be maintained in good repair. Broken, loose, frayed, inoperative, defective or missing portions shall be repaired or replaced. The fixtures, fixture coverings, switches, and outlets shall be maintained in a clean and sanitary condition free from dirty or foreign materials.

BUILDING CODE

91.8902.1. Inadequate Sanitation. Inadequate sanitation shall include, but not be limited to, the following:

* * *

12. Infestation of insects, vermin or rodents as determined by the health officer.

13. General dilapidation or improper maintenance.

* * *

BUILDING REGULATIONS

SEC. 92.0109. REQUIRED ELEVATORS. (Amended by Ord. No. 174,861, Eff. 11/14/02, Oper. 11/1/02.)

Every inhabited building provided with a passenger elevator after the effective date of this Section shall maintain at least one operational passenger elevator serving all occupied levels of the building, regardless of the number or stories.

EXCEPTION: The building may be inhabited for a limited period of time, subject to the approval of the Department, without an operational elevator during periods of elevator maintenance, repair or replacement.

PLUMBING CODE

ARTICLE 3, DIVISION 2

PERMITS, PLANS AND FEES

(Division and Sections Renumbered by Ord No. 154,234, Eff. 9/8/80.)

SEC. 93.0201. PERMIT REQUIRED.

(Amended by Ord. No. 172,593, Eff. 6/28/99, Oper. 7/1/99.)

No person shall, install, alter, reconstruct or repair any electrical wiring unless a permit therefor has been obtained from the Department except as otherwise provided in this Code.

EXCEPTIONS:

1. A separate electrical permit shall not be required for any electrical wiring for which a combined building-mechanical permit has been obtained pursuant to LAMC Section 91.107.2.2.

2. No person shall be subject to fine, imprisonment or payment of an investigation fee for starting or doing any electrical wiring without a permit being first obtained if a permit is obtained therefor on or before 12:00 noon on the third day the office of the Department is open for public business after the electrical wiring was started.

BUILDING REGULATIONS

SEC. 94.103.0. PERMITS AND INSPECTIONS.

94.103.1. Permits Required.

94.103.1.1. General. Except as otherwise provided in this Code, no person shall add, alter, construct, install, move, reconstruct, relocate, remove, repair or replace any plumbing, fire sprinkler, rainwater piping, standpipe, subsurface drainage piping, swimming pool piping, reclaimed water piping, underground fire protection piping, or graywater piping system unless a plumbing or fire sprinkler permit for it has been obtained from the Department.

94.103.1.1.1. A permit shall be required where the Department has determined that the gas piping shall be retested for the following:

* * *

PLUMBING CODE

ARTICLE 4, DIVISION 7

SANITARY DRAINAGE

(Amended by Ord. No. 172,594, Eff. 6/28/99, Oper. 7/1/99.)*

Section 94.700.0 Basic Provisions.

SEC. 94.700.0. BASIC PROVISIONS.

Chapter 7 of the C.P.C. is hereby adopted by reference.

* * *

PUBLIC SAFETY AND PROTECTION

SEC. 57.20.15. FIRE PROTECTION EQUIPMENT.

A. No person shall maintain any fire protection equipment, fire assembly, fire protective signaling system, or smoke detector in a state of disrepair, or install or maintain any such device in a manner which creates a fire, life, or explosion hazard.

B. No person shall willfully and maliciously tamper with, damage, break, or remove any fire protection equipment, fire assembly, fire protective signaling system, or smoke detector.

C. No person shall willfully and maliciously send, give, transmit, or sound any false alarm of fire

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* The following sections in Division 7 are deleted in entirety by Ord. No. 172,594:

94.701.0 thru 94.722.0.

by means of a fire protective signaling system or by any other means or method.

D. (Added by Ord. No. 170,954, Eff. 4/16/96.) Any person who violates this section shall be punishable by at least a mandatory minimum fine of $500.00, up to and not exceeding $1,000.00 or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each person shall be guilty of a separate offense for each and every day, or portion thereof, during which a violation of any provision of this section is committed, continued, or permitted by such person and shall be punishable accordingly.

PUBLIC SAFETY AND PROTECTION

SEC. 57.20.41. FIRE ASSEMBLY.

A. No person shall wedge, block, obstruct, or otherwise cause or allow the impairment of the operation of a fire assembly.

B. Fire assembly doors shall be kept in a closed position and shall be equipped with an approved, listed self-closing device.

EXCEPTION:

Fire assembly doors with automatic self-closing devices which may remain in an open position and will close automatically when activated by an approved and listed smoke detector.

C. Any person in charge or control of a building shall remove any block, wedge, or other device which is known by such person to be causing a self-closing fire assembly door to remain in an open position.

D. All fire assembly doors shall have a label or other identification showing the fire protection rating. Labels shall be approved and shall be permanently affixed at the factory. No person shall remove or otherwise obliterate the label or other identification showing the fire protection rating.

E. (Added by Ord. No. 170,954, Eff. 4/16/96.) Any person who violates this section shall be punishable by at least a mandatory minimum fine of $150.00, up to and not exceeding $1,000.00 or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each person shall be guilty of a separate offense for each and every day, or portion thereof, during which a violation of any provision of this section is committed, continued, or permitted by such person and shall be punishable accordingly.

PUBLIC SAFETY AND PROTECTION

SEC. 57.33.14. FIRE ESCAPES.

A. No person shall attach or fasten, or cause to be fastened, to any part of any fire escape, any rope, wire cable or similar device, except approved standard equipment, nor shall any person store or maintain anything upon any part of any fire escape.

B. Access to fire escapes shall be any one of the following:

1. Through a room between the corridor and the fire escape if the door to the room is openable from the corridor side without the use of a key, tool, or special knowledge or effort, or by an alternate method of access, as determined by the Chief.

2. By a door openable to a fire escape from the interior without the use of a key, tool, or special knowledge or effort, as determined by the Chief.

3. By a window openable from the interior without the use of a key, tool, or special knowledge or effort, as determined by the Chief. Such window shall have a minimum dimension of 29 inches when open. The sill shall be not more than 30 inches above the floor and landing.

C. Protection of Exterior Openings: When a fire escape is designated as one of the required exits from a building, the openings onto the fire escape landing and other openings within five feet horizontally of the landing shall be protected in a manner acceptable to the Chief.

D. Any person who violates this section shall be punishable by at least a mandatory minimum fine of $100.00, up to and not exceeding $1,000.00 or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and

imprisonment. Each person shall be guilty of a separate offense for each and every day, or portion thereof, during which a violation of any provision of this section is committed, continued, or permitted by such person and shall be punishable accordingly. **(Added by Ord. No. 170,954, Eff. 4/16/96.)**

FIRE PROTECTION AND PREVENTION (FIRE CODE)

SEC. 57.33.15. EXIT SIGNS AND DIRECTIONAL EXIT SIGNS.

Persons owning or managing any occupancy shall provide exit signs and directional exit signs as follows:

A. Location: Exit signs, or directional exit signs, or both, shall be provided at every exit door, at the intersection of corridors, at exit stairways or ramps and at such other locations and intervals as are necessary to provide the occupants with knowledge of at least two means of egress. Exit signs need not be provided for the following:

1. Dwellings units in Group R, Division 1 Occupancies.

2. Group R, Division 3 Occupancies.

3. Main exterior exit doors which obviously and clearly are identifiable as exits, when approved by the Chief.

B. Graphics: Exit signs and directional exit signs shall have block letters at least six inches in height with a stroke of not less than 3/4 inch. Letter shall be of such color or design as to be in strong contrast to the background of the sign. Arrows or other directional symbols shall be of equal visibility to that stipulated herein for letters.

C. Illumination: Whenever the building is occupied, exit signs and directional exit signs shall be lighted so that they are clearly visible. Electrical internally lighted exit signs shall comply with the requirements of Chapter 9 of the L.A.M.C. (Electrical Code).

1. **Separate Circuits:** Exit signs and exit directional signs shall be electrically illuminated and the two lamps shall be energized from separate circuits, one of which shall be used only for such signs, separated from an other [sic] circuits in the building, and independently controlled, when the capacity of any occupancy is as follows:

a. Group A, B, and E Occupancies with an occupant load of 300 or more persons.

b. Group H and R, Division 1 Occupancies with an occupant load of 101 or more persons.

c. Group D and Occupancies with an occupant load of 50 or more persons.

2. Illumination shall normally be provided by the premises wiring system. In the event of failure of this system, illumination shall be automatically provided from an emergency system in accordance with Title 19 and 24, C.A.C., when applicable, or Chapter 9, L.A.M.C. (Electrical Code).

* * *

PUBLIC SAFETY AND PROTECTION

SEC. 57.33.17. STAIRWAY IDENTIFICATION SYSTEM.

A. Every person owning or managing a building three or more stories in height shall provide and maintain an approved stairway identification sign at each floor level landing in every stairshaft. The sign shall indicate the floor level, the lower and upper terminations of the stairway, whether or not there is roof access, and the identification of the stairway.

B. Stairway identification signs shall conform to the following specifications:

1. Sign shall be square in shape with a minimum dimension of 12 inches.

2. Numbers and letters on the sign shall be of a block style on a contrasting background.

3. The numbers and/or letters indicating the floor level shall be placed in the middle of the sign and shall be at least five inches in height with a three-fourths inch stroke.

4. The following numbers and letters shall be located on the sign as indicated below, and shall be at least one inch in height with a one-fourth inch stroke:

a. The numbers and letters indicating the lower and upper terminations of the stairway shall be at the top of the sign.

b. The wording "**Roof Access**" or "**No Roof Access**" shall be below the lower and upper terminations designation and above the floor designation.

c. Stairways shall be identified consecutively such as "**Stair 1**", "**Stair 2**", etc. This designation shall be located at the bottom of the sign.

5. Signs shall be durable and installed or applied in a permanent manner on the stairshaft wall adjacent to the stairshaft door in a location which is clearly visible whether the door is in the open or closed position.

6. The bottom of the sign shall be five feet above the floor of the stairway landing.

C. The Chief shall have the authority to determine the floor level number placed on the sign so as to standardize the signs installed in stairways. Floor level members placed on such signs shall conform to the Chief's specifications.

D. Any person who violates this section shall be punishable by at least a mandatory minimum fine of $200.00, up to and not exceeding $1,000.00 or by imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each person shall be guilty of a separate offense for each and every day, or portion thereof, during which a violation of any provision of this section is committed, continued, or permitted by such person and shall be punishable accordingly. **(Added by Ord. No. 170,954, Eff. 4/16/96.)**

SEC. 57.138.13. SIGNS.

A. All Fire Department sprinkler and standpipe inlet connections shall be provided with approved signs indicating the type of system and the area served, Signs shall be securely attached to the building adjacent to the inlet connections. Signs shall be not less than eight inches in width and four inches in height.

B. Automatic sprinkler systems, standpipe systems, fire pumps, and risers shall be provided and

maintained with identification signs for all control, drain, test, and alarm valves. Signs shall be of the standard design approved by the Chief. Directional arrows shall be provided to indicate water flow on fire pumps and risers. **(Amended by Ord. No. 167,326, Eff. 11/16/91.)**

C. Signs stating "**SPRINKLER SHUTOFF**" showing the location of sprinkler shutoff valves shall be provided on doors of rooms or closets that contain sprinkler shutoff valves and at any other locations required by the Chief. The size of letters on the sign shall be approved by the Chief and on a contrasting background. Directional signs shall include an arrow indicating the direction of travel to sprinkler shutoff valves.

D. Fire hose cabinets shall be clearly identifiable or contain a sign on the cabinet door stating "**FIRE HOSE**" with letters not less than three inches in height on a contrasting background.

E. Fire hose cabinets that contain a fire extinguisher shall also be identified with a sign stating "**FIRE EXTINGUISHER**" with letters not less than three inches high on a contrasting background.

F. (Added by Ord. No. 170,954, Eff. 4/16/96.) Any person who violates this section shall be punishable by at least a mandatory minimum fine of $100.00, up to and not exceeding $1,000.00 or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each person shall be guilty of a

separate offense for each and every day, or portion thereof, during which a violation of any provision of this section is committed, continued, or permitted by such person and shall be punishable accordingly

* * *

LOS ANGELES COUNTY CODE SECTIONS

Municipal Code Corporation of Tallahassee, FL
Subsidiary of Lexis-Nexis

11.16.020 Sanitation of premises – Responsibility of owner or agent.

1. The owner, agent or manager of any premises shall maintain such premises in a clean, sanitary condition, free from accumulations of garbage, rubbish, refuse and other wastes at all times, except as provided by the provisions of this Division 1 or other applicable laws. (Ord. 8588 § 1 (part), 1964: Ord. 7583 Part 3 Ch. 7 § 605, 1959.)

11.20.140 Substandard dwelling.

1. A. "Substandard dwelling" means any dwelling, house court, dormitory, hotel, motel or apartment house which, through lack of maintenance or repair, generally endangers the life, limb, health, property, safety or welfare of the public, or of the occupants thereof.

B. Conditions which render a structure a "substandard dwelling" include, but are not limited to, any of the following:

1. Lack of approved toilet or privy structure, bathtub or shower, kitchen sink, hot and cold running water, or other required approved plumbing within an apartment or dwelling;

2. Lack of exterior wall or roof covering adequate to protect the occupants from the elements;

3. Damaged interior walls, partitions, floors or ceiling;

4. Plumbing fixtures and piping which have become insanitary or are otherwise in a condition to create a health hazard;

5. Sewage disposal system which has become insanitary or is otherwise in a condition to create a health hazard;

6. Unreasonable collection of rubbish, debris or trash upon premises;

7. Any of the conditions specified in Section 11.02.300, subsections B, C, D or E;

8. Use of other than habitable rooms for living, cooking or eating purposes;

9. Incomplete construction;

10. Infestation by insects, vermin or rodents;

11. General dilapidation;

12. Lack of a water supply adequate to sustain the health of the inhabitants. (Ord. 8588 § 1 (part), 1964: Ord. 7583 Part 3 Ch. 11 § 809, 1959.)

11.20.160 Maintenance required – Noncompliance unlawful.

1. Every dwelling, house court, hotel, motel and apartment house shall be maintained in good repair. It is unlawful for any person to occupy or to cause or permit another person to occupy any dwelling, house court, hotel, motel and apartment house which does not comply with this section. (Ord. 12098 § 2, 1980: Ord. 8588 § 1 (part), 1964: Ord. 7583 Part 3 Ch. 11 § 820, 1959.)

11.20.190 Toilet rooms and bathing facilities.

1. Every dwelling unit shall contain a lavatory and bathtub or shower. All lavatories, bathtubs and showers of dwellings, house courts, hotels, motels and apartment houses shall be provided with hot and cold running water under pressure. All toilet rooms, bath and shower rooms and utility rooms shall be adequately lighted and ventilated to the outside atmosphere. All such rooms and the fixtures and equipment therein shall be maintained in a state of good repair and free from dirt, filth and corrosion. It is unlawful for any person to occupy or to cause or permit another person to occupy any dwelling unit which does not comply with this section. (Ord. 12098 § 1, 1980: Ord. 8588 § 1 (part), 1964: Ord. 7583 Part 3 Ch. 11 § 819, 1959.)

11.30.010 Maintaining rodent or pest harborage conditions unlawful – Notice to abate.

1. No person shall occupy, maintain, or cause or permit another person to occupy or maintain any building, lot, premises, vehicle or any other place, in such condition of construction or maintenance as will permit the breeding or harborage therein or thereon of rodents, fleas, bedbugs, cockroaches, lice, mosquitoes or any other vermin. No person may permit an accumulation of any material that may serve as a rodent harborage unless such material be elevated not less than 18 inches above the ground or floor with a clear intervening space thereunder. Whenever the director finds any building, lot, premises, vehicle or other place to be infested with vermin or rodents, or to be in such an insanitary condition as to require fumigation or renovation, the director may notify the owner, his agent, the tenant or possessor thereof, in writing, specifying the manner in which the provisions of this chapter are being violated, and indicating the specific measures that shall be taken by the recipient of such notice to abate said conditions. (Ord. 8588 § 1 (part), 1964: Ord. 7583 Part 3 Ch. 8 § 628, 1959.)